



Reprinted
February 27, 2002

ENGROSSED HOUSE BILL No. 1101

DIGEST OF HB 1101 (Updated February 26, 2002 5:49 PM - DI 102)

Citations Affected: IC 3-5; IC 3-6; IC 3-7; IC 3-8; IC 3-9; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-13; IC 3-14; IC 6-1.1; IC 36-1; IC 36-2; IC 36-3; IC 36-4; IC 36-5; IC 36-6.

Synopsis: Various election law changes. Makes changes to election law concerning the following: (1) The formulation by the election commission of a statement of a "voter's bill of rights". (2) The date that electronic filing of certain campaign finance reports is considered to have occurred. (3) The total number of signatures that a candidate for President of the United States, United States Senator, or governor is required to obtain to qualify for placement on the ballot. (4) The requirement for an individual who registers to vote to provide the last four digits of the individual's Social Security number. (5) The organization and disbanding of political committees. (6) An erroneous reference in a statute relating to absentee voting. (7) Deadlines for taking certain actions relating to filling candidate vacancies. (8) Determination of the political affiliation of an appointee to a local board. (9) Authorizing the election commission to adopt rules to update
(Continued next page)

Effective: Upon passage; July 1, 2002; January 1, 2003.

Kromkowski, Richardson, Cheney, Behning

(SENATE SPONSORS — LANDSKE, BREAUX, SKILLMAN, CRAYCRAFT,
YOUNG R)

January 8, 2002, read first time and referred to Committee on Elections and Apportionment.

January 30, 2002, amended, reported — Do Pass.

February 4, 2002, read second time, ordered engrossed. Engrossed.

February 5, 2002, read third time, passed. Yeas 94, nays 1.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Legislative Apportionment and Elections.

February 19, 2002, amended, reported favorably — Do Pass.

February 26, 2002, read second time, amended, ordered engrossed.

EH 1101—LS 6448/DI 75+



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standards for voting systems. (10) Establishing a procedure for a member of a county election board to file a protest with the state election commission when an election ballot does not comply with the requirements of IC 3-11-2 or is otherwise not in the form required by law. (11) The requirement that nominees be listed on a general election ballot in type with uniform capital letters and with uniform space between each name. (12) Authorizing a county election board to establish the number of voters a precinct may contain that permits the precinct to have its polls located at the same location as another precinct. (13) Authorizing the town of Danville to adopt an ordinance changing the date of its municipal elections to coincide with a general election. (14) Authorizing a county to appeal to the department of local government finance for permission to exceed for up to 3 years the ad valorem property tax levy limits to pay for a new voting system or the expansion or upgrade of an existing voting system. (15) The establishment of a provisional ballot. (16) Permitting a county election board to eliminate certain precinct election offices and to allow individuals between 16 and 18 to serve as poll clerks and election sheriffs under certain circumstances. (17) Making certain changes concerning absentee ballots, including the submission of absentee votes by fax transmission by certain voters under certain circumstances. (18) Requiring the attorney general to receive and investigate complaints concerning violations of Indiana election laws. (19) Expanding the definition of absent uniformed services voter to include a member of the Indiana national guard deployed outside of Indiana. (20) Allowing late registration of absent uniformed services voters under certain circumstances. (21) Requiring a county election board to send confirmation that an absentee ballot was received to all absent uniformed services voters. (22) The freezing of precinct boundaries from before the federal decennial census until after the adoption of redistricting plans for: (A) United States Representatives; and (B) senators and representatives in the general assembly. (23) The requirement that, after November 8, 2011, any local governmental body or office required periodically to establish or revise its districts use the precinct boundaries used in preparing the redistricting plans for: (A) United States Representatives; and (B) senators and representatives in the general assembly. (24) Allowing the office of census data, whenever a precinct boundary splits a census block, to move precinct boundaries to the next whole census block for the purpose of tabulation before a federal decennial census. (25) Allowing precinct boundaries to cross a city boundary in certain circumstances. (26) Repealing superceded statutes relating to: (A) registration of absent uniformed services voters and overseas voters; and (B) the counting of absentee ballots at a central location. (27) Repealing a provision establishing a board of registration in each county having a population of more than 125,000.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED HOUSE BILL No. 1101

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-1.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1.5. "Absent
3 uniformed services voter" ~~as provided in 42 U.S.C. 1973ff-6(1); means:~~
4 **refers to any of the following:**

5 (1) A member of a uniformed service on active duty who, by
6 reason of active duty, is absent from the place of residence where
7 the member is otherwise qualified to vote.

8 (2) A member of the merchant marine who, by reason of service
9 in the merchant marine, is absent from the place of residence
10 where the member is otherwise qualified to vote. ~~and~~

11 **(3) A member of the Indiana national guard deployed or on**
12 **assignment outside Indiana.**

13 **(4) A spouse or dependent of a member referred to in subdivision**
14 **(1), or (2), or (3) who, by reason of the active duty or service of**
15 the member, is absent from the place of residence where the
16 spouse or dependent is otherwise qualified to vote.

17 SECTION 2. IC 3-5-2-23.7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 23.7. "Fax" refers to transmission of information by a facsimile (fax) machine.**

SECTION 3. IC 3-5-2-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 24.5. "Filing" means the following:

(1) For purposes of filing an electronic report under IC 3-9-4-4 or IC 3-9-5-7, when the requirements of IC 3-9-4-4 or IC 3-9-5-7 have been met.

(2) For all other purposes, when all of the following have occurred:

(A) The presentation of a document to an individual required to receive the document under this title.

(B) The receipt of the document by the individual. and

(C) The recording of the date and time the document was received by the individual.

SECTION 4. IC 3-5-2-34.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 34.5. "Overseas voter" as provided in 42 U.S.C. 1973ff-6(5); means: refers to any of the following:

(1) An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved.

(2) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States. or

(3) A person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

SECTION 5. IC 3-5-2-40.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 40.6 "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7.**

SECTION 6. IC 3-5-2-40.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 40.7 "Provisional voter" refers to an individual who is entitled to cast a provisional ballot under IC 3-11.7.**

SECTION 7. IC 3-5-2-41.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 41.7. "Registration agency" refers to any of the following:**

(1) The bureau of motor vehicles.



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(2) Any other agency at which individuals may register to vote under IC 3-7.

SECTION 8. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 48.5. "Testing authority" means an independent test authority as described in:

(1) Appendix L of the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued by the Federal Election Commission in January 1990; or

(2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.

SECTION 9. IC 3-5-2-50.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 50.4. "Voter's bill of rights" refers to the statement prescribed by the commission under IC 3-5-8.

SECTION 10. IC 3-5-4-8, AS AMENDED BY P.L.38-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) Except as provided in subsection (e), but notwithstanding any other statute, whenever the commission acts under IC 3-6-4.1-14 to approve a uniform election or registration form for use throughout Indiana or to approve a revision to an existing form, a person must use the most recent version of the form approved by the commission to comply with this title after the effective date of the commission's order approving the form.

(b) Except as provided in subsection (d) or (f), before an order approving a form takes effect under this section, the election division shall transmit a copy of each form or revised form approved by the order to the following:

(1) Each circuit court clerk, if the commission determines that the form is primarily used by a candidate, a county election board member, a county or town political party, or for absentee or provisional ballot purposes.

(2) Each county voter registration office, if the commission determines that the form is primarily used in voter registration.

(3) The state chairman of each major political party.

(4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.



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(d) The commission shall specify the effective date of the form or revised form and may:

(1) delay the effective date of the approval of a form or revised form; and

(2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record. The commission may allow an earlier approved version of the form to be used if the:

(1) earlier version of the form complies with all other requirements imposed under NVRA or this title; and

(2) commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.

(f) This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon adoption, without any requirement to distribute the form to other persons.

SECTION 11. IC 3-5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

Chapter 8. The Voter's Bill of Rights

Sec. 1. The commission shall prescribe a statement of the rights of a voter in Indiana that shall be known as "the voter's bill of rights".

Sec. 2. The statement required by section 1 of this chapter must contain the following:

(1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.

(2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.

(3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.

(4) A statement describing how a voter who is challenged at the polls may be permitted to vote.



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(5) A statement informing the voter what assistance is available to assist the voter at the polls.

(6) A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.

(7) A statement describing which voters will be permitted to vote at the closing of the polls.

(8) Other information that the commission considers important for a voter to know.

Sec. 3. The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

Sec. 4. The secretary of state or other state agency posting election information on the state's Internet site shall include the voter's bill of rights on the site.

Sec. 5. Not later than thirty (30) days before a primary, general, or municipal election, the secretary of state shall request Indiana news media to include a copy of the voter's bill of rights as part of election coverage or in public service announcements.

SECTION 12. IC 3-6-4.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) In addition to other duties prescribed by law, the commission shall do the following:

- (1) Administer Indiana election laws.
- (2) Adopt rules under IC 4-22-2 to do the following:
 - (A) Govern the fair, legal, and orderly conduct of elections, including the following:
 - (i) Emergency rules described in section 16 of this chapter to implement a court order requiring the commission, the election division, or an election board or official to administer an election in a manner not authorized by this title.
 - (ii) Rules (including joint rules with other agencies when necessary) to implement and administer NVRA.
 - (B) Carry out IC 3-9 (campaign finance).
 - (C) Govern the establishment of precincts under IC 3-11-1.5.
 - (D) Specify procedures and fees for the processing of an application from a vendor for voting systems approval and testing.
 - (E) Prescribe formats for the storage and submission of computerized voter registration records by county and state agencies or offices.
- (3) Prescribe a uniform set of election and registration forms for



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1 use throughout Indiana, except when prescribed by this title.

2 (4) Advise and exercise supervision over local election and
3 registration officers.

4 **(5) Investigate and take action on petitions filed under**
5 **IC 3-11-2-17.**

6 (b) This section does not divest a county election board of any
7 powers and duties imposed on the board in IC 3-6-5, except that if
8 there is a deadlock on a county election board, the county election
9 board shall submit the question to the commission for final
10 determination.

11 SECTION 13. IC 3-6-6-2, AS AMENDED BY P.L.176-1999,
12 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JANUARY 1, 2003]: Sec. 2. (a) **Except as provided in section 38 of**
14 **this chapter**, each county election board shall appoint two (2) poll
15 clerks for each precinct in the county.

16 (b) Each county chairman of a major political party of the county is
17 entitled to nominate one (1) poll clerk under section 9 of this chapter.

18 (c) **Except as provided in section 39 of this chapter**, the poll
19 clerks must be voters of the county.

20 SECTION 14. IC 3-6-6-4 IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JANUARY 1, 2003]: Sec. 4. A county election board
22 shall adopt a written resolution ~~at least twenty-one (21)~~ **not later than**
23 **twenty-eight (28)** days before election day designating the precincts
24 for which assistant clerks are to be appointed. The county election
25 board shall file a copy of the resolution in the office of the circuit court
26 clerk and shall mail copies to the county chairmen of the major
27 political parties of the county.

28 SECTION 15. IC 3-6-6-5, AS AMENDED BY P.L.176-1999,
29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JANUARY 1, 2003]: Sec. 5. (a) Except as provided in ~~subsection (d)~~,
31 **section 38 of this chapter**, each county election board shall appoint
32 two (2) election sheriffs for each precinct in the county.

33 (b) Each county chairman of a major political party of the county is
34 entitled to nominate one (1) election sheriff under section 9 of this
35 chapter.

36 (c) **Except as provided in section 39 of this chapter**, the sheriffs
37 must be voters of the county.

38 (d) ~~A county executive may issue an order providing that the judges~~
39 ~~of each precinct named in the order shall perform the duties and have~~
40 ~~the rights of the election sheriffs of the precinct named in the order. An~~
41 ~~order issued under this subsection remains in effect until the county~~
42 ~~executive rescinds the order.~~



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SECTION 16. IC 3-6-6-6 IS AMENDED TO READ AS FOLLOWS: Sec. 6. Each inspector, judge, poll clerk, assistant poll clerk, and election sheriff who is:

(1) a voter of the county; and

(2) not a resident of the precinct;

is entitled to vote by absentee ballot.

SECTION 17. IC 3-6-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. The county chairmen of the major political parties of a county may nominate **voters individuals who meet the requirements of section 7 or 39 of this chapter** for the following precinct election offices **who will serve in the precinct on election day**:

(1) Judge.

(2) Poll clerk.

(3) Assistant poll clerk.

(4) Election sheriff.

SECTION 18. IC 3-6-6-10, AS AMENDED BY P.L.176-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. (a) A county chairman may make nominations for precinct election offices by filing the nominations in writing with the circuit court clerk ~~no not~~ later than noon ~~fourteen (14)~~ **twenty-one (21)** days before the election.

(b) This subsection does not apply to the office of precinct inspector. A county chairman may specify in the nomination of an individual for a precinct election office that the individual is nominated to serve until noon on election day and that another individual is nominated to serve in the same precinct election office beginning at noon on election day until the expiration of the term of the office under section 37(b) of this chapter.

SECTION 19. IC 3-6-6-11, AS AMENDED BY P.L.176-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. (a) A county election board shall appoint the **voters individuals** who are nominated for precinct election offices by the county chairmen **if the individuals are otherwise eligible under this chapter to serve in the precinct election offices for which they are nominated.**

(b) This subsection does not apply to the office of precinct inspector. This subsection applies to an appointment to a precinct election office made following a nomination by a county chairman under this chapter. The county election board shall provide that an appointment of an individual to a precinct election office:

(1) expires at noon on election day; or



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(2) begins at noon on election day and expires under section 37(b) of this chapter;

if the nomination made by the county chairman specifies that the nomination is made for a term that begins or expires at those times.

(c) This subsection does not apply to the office of precinct inspector. This subsection applies to an appointment to a precinct election office made by a county election board under section 13(b) of this chapter. The county election board may appoint an individual to a precinct election office for a term that:

(1) expires at noon on election day; or

(2) begins at noon on election day and expires under section 37(b) of this chapter.

SECTION 20. IC 3-6-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, ~~seven (7)~~ **fourteen (14)** days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by unanimous vote of the entire membership of the board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

SECTION 21. IC 3-6-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

(1) I will support the Constitution of the United States and the Constitution of the State of Indiana.

(2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.

(3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.

(4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, **if required by law**, am a qualified voter of that

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county.

(5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.

(6) I am able to read, write, and speak the English language.

(7) I have no property bet or wagered on the result of this election.

(8) I am not a candidate to be voted for at this election, except as an unopposed candidate for a political party office.

(9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

SECTION 22. IC 3-6-6-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.**

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

(1) Sheriff.

(2) Poll clerks.

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

(1) The precincts to which the resolution applies.

(2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.

(3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the

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1 resolution.

2 (f) A resolution adopted under this section expires December 31
3 after the resolution is adopted.

4 SECTION 23. IC 3-6-6-39 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
6 JANUARY 1, 2003]: Sec. 39. The county election board may permit
7 an individual who is not a voter to be a poll clerk or an election
8 sheriff if the individual satisfies all the following:

9 (1) The individual is at least sixteen (16) years of age but not
10 more than seventeen (17) years of age.

11 (2) The individual is a citizen of the United States.

12 (3) The individual is a resident of the county.

13 (4) The individual has a cumulative grade point average
14 equivalent to not less than 3.0 on a 4.0 scale.

15 (5) The individual has the written approval of the principal of
16 the school the individual attends at the time of the
17 appointment.

18 (6) The individual has the approval of the individual's parent
19 or legal guardian.

20 (7) The individual has satisfactorily completed any training
21 required by the county election board.

22 (8) The individual otherwise is eligible to serve as a precinct
23 election officer under this chapter.

24 SECTION 24. IC 3-6-12 IS ADDED TO THE INDIANA CODE AS
25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2002]:

27 **Chapter 12. Investigation of Violations of Election Law**

28 **Sec. 1.** The attorney general shall establish a toll free telephone
29 number to receive complaints from individuals regarding
30 violations of this title.

31 **Sec. 2.** The attorney general shall investigate complaints
32 received under this chapter.

33 **Sec. 3.** If the attorney general finds that there is a basis for the
34 complaint, the attorney general shall do the following:

35 (1) Refer the complaint and the results of the investigation to
36 the appropriate local, state, or federal agency. If the attorney
37 general determines that there is a basis to believe that there
38 may have been a violation of criminal law, the attorney
39 general shall refer the complaint to the appropriate federal
40 agencies and the appropriate prosecuting attorney.

41 (2) Report the results of the attorney general's investigation
42 to the individual making the complaint. However, the attorney

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1 general may exclude from the report any information the
 2 disclosure of which the attorney general believes may impair
 3 any pending investigation.

4 **Sec. 4. (a) In conducting an investigation under this chapter, the**
 5 **attorney general shall have the following powers:**

6 (1) To issue and serve subpoenas requiring:

7 (A) the appearance of a witness in person before the
 8 attorney general or any person designated by the attorney
 9 general; or

10 (B) the production of books, papers, electronic data, and
 11 documents or other things.

12 (2) To question witnesses.

13 (3) To require witnesses to give testimony under oath.

14 (4) To transcribe testimony provided by witnesses.

15 (5) To copy, examine, or inspect, or cause to be copied,
 16 examined, or inspected, any books, papers, electronic data,
 17 records of investigations, summaries of investigations, and
 18 documents or other things contained or found in any public
 19 office or other place (including, without limitation, evidence
 20 under the control of the state police department, local law
 21 enforcement personnel, prosecuting attorneys, clerks of court,
 22 county election boards, county boards of registration, and
 23 boards of elections and registration), whether or not the
 24 books, papers, electronic data, records of investigations,
 25 summaries of investigations, and documents or other things
 26 are or contain confidential information. The attorney general
 27 shall maintain the confidentiality of any information obtained
 28 under this subdivision.

29 (6) To examine, inspect, or test, or cause to be examined,
 30 inspected, or tested, any machine, computer, or other thing.

31 (7) To issue a civil investigative demand under IC 4-6-3.

32 (8) To apply to a court to enforce a subpoena, civil
 33 investigative demand, or any other investigative request
 34 issued under this chapter.

35 (9) To exercise all of the investigative powers of a prosecuting
 36 attorney.

37 (b) Only the attorney general or a person designated by the
 38 attorney general may exercise the powers provided in this section.

39 **Sec. 5. The commission shall reimburse in full the investigative**
 40 **costs (including the cost of any special deputy attorney general and**
 41 **payroll expenses) incurred by the attorney general under this**
 42 **chapter upon the attorney general's certification to the commission**



1 **of the amount of the investigative costs.**

2 SECTION 25. IC 3-7-12-1, AS AMENDED BY P.L.144-2001,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 1. (a) This section does not apply to the
5 following counties:

6 (1) A county in which a board of elections and registration is
7 established under IC 3-6-5.2 or IC 3-6-5.4.

8 (2) A county in which a board of registration is established

9 ~~(A) by this chapter; or~~

10 ~~(B)~~ by a county acting under this chapter.

11 (b) The circuit court clerk:

12 (1) is the voter registration officer of each county; and

13 (2) shall supervise the registration of voters of the county.

14 SECTION 26. IC 3-7-12-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The county
16 executive of a county not described in ~~section 2 or 3 of this chapter~~
17 **IC 3-6-5.2 or IC 3-6-5.4** may adopt an order to establish a board of
18 registration.

19 SECTION 27. IC 3-7-32-4 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. A voter may
21 not submit a registration application by electronic transmission except
22 ~~for an absent uniformed services voter or overseas voter under~~
23 ~~IC 3-11-4-4; as provided in IC 3-11-4.~~

24 SECTION 28. IC 3-7-36-2 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. A voter
26 described in section 1 of this chapter who **wants to:**

27 (1) ~~is eligible for an vote by~~ absentee ballot under IC 3-11-4; and

28 (2) ~~wants to~~ execute an affidavit or a form for voter registration;
29 is not required to sign the affidavit or form in the presence of a person
30 authorized to administer an oath, and the affidavit or form need not be
31 signed by such a person.

32 SECTION 29. IC 3-7-36-5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) This section
34 does not apply to a voter who files a combined absentee registration
35 form and absentee ballot request.

36 (b) When a circuit court clerk or board of registration receives an
37 application for absentee registration, the clerk or board shall promptly
38 mail or deliver to the applicant the affidavit prescribed by this ~~chapter~~
39 **title** for the registration of an absentee voter by absentee process.

40 (c) When the properly executed and certified affidavit is returned to
41 the clerk or board, the applicant becomes a registered voter in the
42 precinct of residence.



1 SECTION 30. IC 3-7-36-11 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. ~~A voter whose~~
 3 ~~registration has been canceled according~~ (a) **This section applies only**
 4 **to a person described in subsection (b) who applies to register to**
 5 **vote:**

- 6 (1) after the date described in IC 3-7-13-11; and
 7 (2) before the date that the certified list of voters is prepared
 8 under IC 3-7-29-1.

9 (b) **An absent uniformed services voter who is absent from**
 10 **Indiana during the registration period described in IC 3-7-13-10**
 11 **and who otherwise would be entitled to register to this article while**
 12 **in the armed services of the United States vote under Indiana law**
 13 **may, upon return returning to Indiana during the period described**
 14 **in subsection (a) following discharge from service have registration**
 15 **reinstated at any time or reassignment, register to vote by doing the**
 16 **following:**

- 17 (1) Showing either of the following to the circuit court clerk or
 18 board of registration:

19 (A) ~~An honorable A~~ discharge from service to the circuit court
 20 clerk or board of registration except during the period
 21 beginning on the date that the certified list of voters is
 22 prepared under IC 3-7-29-1 and ending on election day., dated
 23 not earlier than the beginning of the registration period
 24 that ended on the date described in IC 3-7-13-11, of:

- 25 (i) the voter;
 26 (ii) the voter's spouse; or
 27 (iii) the individual of whom the voter is a dependent.

28 (B) A copy of the government movement orders, with a
 29 reporting date not earlier than the beginning of the
 30 registration period that ended on the date described in
 31 IC 3-7-13-11, of:

- 32 (i) the voter;
 33 (ii) the voter's spouse; or
 34 (iii) the individual of whom the voter is a dependent.

- 35 (2) Completing a registration affidavit.

36 (c) A voter who registers under this section may vote at the
 37 upcoming election as provided in this title.

38 SECTION 31. IC 3-7-36-14 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 40 JANUARY 1, 2003]: Sec. 14. (a) **This section applies to a person**
 41 **described in subsection (b) who applies to register to vote during**
 42 **the period:**



(1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and

(2) ending at noon election day.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

(1) Showing either of the following to the circuit court clerk:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

(1) Complete an application for an absentee ballot.

(2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

(1) Certify in writing that the voter registered under this section.

(2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, the circuit court

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1 clerk shall promptly mail or deliver the voter's registration
2 affidavit to the board of registration.

3 (f) If the voter chooses not to vote under subsection (c), the clerk
4 or board shall register the voter on the first day of the next
5 registration period.

6 SECTION 32. IC 3-7-48-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) Except as
8 otherwise provided by NVRA or in this chapter, a person whose name
9 does not appear on the registration record may not vote, unless the
10 circuit court clerk or board of registration provides a signed certificate
11 of error in the office where the permanent registration record is kept
12 showing that the voter is legally registered in the precinct where the
13 voter resides.

14 (b) A person whose name does not appear on the registration
15 record may cast a provisional ballot as provided in IC 3-11.7.

16 SECTION 33. IC 3-8-2-8 IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) A declaration of candidacy
18 for the office of United States Senator or for the office of governor
19 must be accompanied by a petition signed by at least ~~five~~ **four**
20 thousand ~~(5,000)~~ **five hundred (4,500)** voters of the state, including at
21 least five hundred (500) voters from each congressional district.

22 (b) Each petition must contain the following:

- 23 (1) The signature of each petitioner.
- 24 (2) The name of each petitioner legibly printed.
- 25 (3) The residence mailing address of each petitioner.

26 (c) This subsection applies to a petition filed during the period:

- 27 (1) beginning on the date that a congressional district plan has
28 been adopted under IC 3-3; and
- 29 (2) ending on the date that the part of the act or order issued under
30 IC 3-3-2 establishing the previous congressional district plan is
31 repealed or superseded.

32 The petition must be signed by at least ~~five~~ **four** thousand ~~(5,000)~~ **five**
33 **hundred (4,500)** voters of Indiana, including at least five hundred
34 (500) voters from each congressional district created by the most recent
35 congressional district plan adopted under IC 3-3.

36 SECTION 34. IC 3-8-3-2 IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A request filed under section
38 1 of this chapter must be accompanied by a petition signed by at least
39 ~~five~~ **four** thousand ~~(5,000)~~ **five hundred (4,500)** voters of the state,
40 including at least five hundred (500) voters from each congressional
41 district.

42 (b) Each petition must contain the following:



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- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.
- (c) This subsection applies to a petition filed during the period:
 - (1) beginning on the date that a congressional district plan has been adopted under IC 3-3; and
 - (2) ending on the date that the part of the act or order issued under IC 3-3-2 establishing the previous congressional district plan is repealed or superseded.

The petition must be signed by at least ~~five~~ **four** thousand ~~(5,000)~~ **five hundred (4,500)** voters of Indiana, including at least five hundred (500) voters from each congressional district created by the most recent congressional district plan adopted under IC 3-3.

SECTION 35. IC 3-7-13-13, AS ADDED BY P.L.199-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided in subsection (b), when an individual registers to vote, the individual must provide the individual's driver's license number issued under IC 9-24-11 or the individual's identification card number issued under IC 9-24-16.

(b) If an individual does not have a driver's license issued under IC 9-24-11 or an identification card issued under IC 9-24-16, the individual ~~may~~ **must** provide the last four (4) digits of the individual's Social Security number when the individual registers to vote.

(c) The number provided by the individual under subsection (a) or (b) is the individual's voter identification number.

(d) A voter's voter identification number may not be changed unless the voter made an error when providing the number when registering to vote.

(e) If a voter transfers the voter's registration and the voter's voter identification number is not included in the voter's registration records, the voter registration officer of the county in which the voter's registration is to be transferred shall require the voter to provide the number required by subsection (a) or (b) before the voter's registration is transferred.

SECTION 36. IC 3-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. Each committee must file a statement of organization ~~no not~~ later than noon ten (10) days ~~after its organization or~~ after it becomes a committee.

SECTION 37. IC 3-9-1-12, AS AMENDED BY P.L.176-1999, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) A committee may disband at any time in the manner prescribed by this section.



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(b) The commission or a county election board may administratively disband a committee in the manner prescribed by this section.

(c) The commission has exclusive jurisdiction to disband any of the following:

- (1) A candidate's committee for state office.
- (2) A candidate's committee for legislative office.
- (3) A legislative caucus committee.
- (4) A political action committee that has filed a statement or report with the election division.
- (5) A regular party committee that has filed a statement or report with the election division.

(d) A county election board has exclusive jurisdiction to disband any of the following:

- (1) A candidate's committee for a local office.
- (2) A candidate's committee for a school board office.
- (3) A political action committee that has filed a statement or report with the election board, unless the political action committee has also filed a report with the election division.
- (4) A regular party committee that has filed a statement or report with the election board, unless the regular party committee has also filed a report with the election division.

(e) The commission or a county election board may administratively disband a committee in the following manner:

- (1) Not later than the last Friday of January of each year, the election division or county election board shall review the list of committees that have filed statements of organization with the division or board under this article.
- (2) If the election division or county election board determines **that a committee: both of the following, the election division or county election board may begin a proceeding before the commission or board to administratively disband the committee:**

(A) **The committee** has not filed any report of expenditures during the previous three (3) calendar years.

~~(B) Owes no debts to any person other than:~~

- ~~(i) a civil penalty assessed by the commission or board; or~~
- ~~(ii) to an individual who was a candidate and also serves as the chairman or treasurer of the candidate's committee; if the committee filed a report under this article; and~~

~~(C)~~ **(B) The committee** last reported cash on hand in an amount that does not exceed one thousand dollars (\$1,000), if the committee filed a report under this article.

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1 the election division or county election board may begin a
 2 proceeding before the commission or board to administratively
 3 ~~disband the committee.~~

4 (3) The election division or county election board shall provide
 5 notice of the proceeding by certified mail to the last known
 6 address of the chairman and treasurer of the committee.

7 (4) The commission or board may issue an order administratively
 8 dissolving the committee and waiving any outstanding civil
 9 penalty previously imposed by the commission or board, if the
 10 commission or board makes the following findings:

11 (A) There is no evidence that the committee continues to
 12 receive contributions, make expenditures, or otherwise
 13 function as a committee.

14 (B) The prudent use of public resources makes further efforts
 15 to collect any outstanding civil penalty imposed against the
 16 committee wasteful or unjust.

17 (C) According to the best evidence available to the
 18 commission or board, the dissolution of the committee will not
 19 impair any contract or impede the collection of a debt or
 20 judgment by any person.

21 (5) The election division shall arrange for the publication in the
 22 Indiana Register of an order administratively disbanding a
 23 committee. A county election board shall publish a notice under
 24 IC 5-3-1 stating that the board has disbanded a committee under
 25 this subsection. The notice must state the date of the order and the
 26 name of the committee, but the board is not required to publish
 27 the text of the order.

28 (6) An order issued under this subsection takes effect immediately
 29 upon its adoption, unless otherwise specified in the order.

30 (f) If the chairman or treasurer of a committee wishes to disband the
 31 committee, the committee must do either of the following:

32 (1) Give written notification of the dissolution and transfer a
 33 surplus of contributions less expenditures to any one (1) or a
 34 combination of the following:

35 (A) One (1) or more regular party committees.

36 (B) One (1) or more candidate's committees.

37 (C) The election division.

38 (D) An organization exempt from federal income taxation
 39 under Section 501 of the Internal Revenue Code.

40 (E) Contributors to the committee, on a pro rata basis.

41 (2) Use the surplus in any other manner permitted under
 42 IC 3-9-3-4.

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(g) Except as provided in subsection (e) concerning the waiver of civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from civil or criminal liability.

SECTION 38. IC 3-9-4-4, AS AMENDED BY P.L.176-1999, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) The election division shall develop a filing and coding system consistent with the purposes of this article. The election division and each county election board shall use the filing and coding system. The coding system must provide:

(1) not more than ten (10) codes to account for various campaign expenditure items; and

(2) a clear explanation of the kinds of expenditure items that must be accounted for under each code.

(b) The election division shall develop and use a computer system to store campaign finance reports required to be filed under IC 3-9-5-6, IC 3-9-5-10, and IC 3-9-5-20.1. The computer system must enable the election division to do the following:

(1) Identify all candidates or committees that received contributions from a contributor over the past three (3) years.

(2) Identify all contributors to a candidate or committee over the past three (3) years.

(3) Provide for electronic submission, retrieval, storage, and disclosure of campaign finance reports of candidates for the following:

(A) Legislative office.

(B) State office.

The election division shall provide training at no cost to candidates to enable candidates described in this subdivision to file campaign finance reports electronically.

(c) This subsection applies to an electronic submission under subsection (b)(3). An electronic submission must be in a format previously approved by the commission that permits the election division to print out a hard copy of the report ~~upon~~ **after** the receipt of the electronic submission from the candidate. Filing of a report occurs under IC 3-5-2-24.5 ~~when on the date and at the time electronically recorded by the hard copy is printed out and the election division records the date and time of the printout on the hard copy-~~ **division's computer system.** If a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed under this article to correct the discrepancy.

(d) The election division is not required to accept an electronic

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1 submission unless the submission complies with subsection (b)(3).
 2 Upon receiving approval from the commission, the election division
 3 may accept an electronic submission from candidates, committees, or
 4 persons described in subsection (b)(3).

5 (e) The election division shall make campaign finance reports stored
 6 on the computer system under subsection (b) available to the general
 7 public through an on-line service.

8 SECTION 39. IC 3-9-5-7, AS AMENDED BY P.L.176-1999,
 9 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2002]: Sec. 7. (a) A person may deliver reports to the
 11 appropriate office as follows:

12 (1) By hand.

13 (2) By mail.

14 (3) By electronic mail, if the appropriate office has the capacity
 15 to **do all of the following:**

16 (A) Receive electronic mail. ~~and~~

17 (B) **Electronically record the date and time that electronic**
 18 **mail is received by the office.**

19 (C) Print out a hard copy of the report ~~immediately upon~~ **after**
 20 the receipt of the electronic mail by the office.

21 (b) Reports must be filed as follows:

22 (1) Hand delivered reports or reports transmitted by mail must be
 23 filed with the appropriate office during regular office hours not
 24 later than noon seven (7) days after the date of the report.

25 (2) Reports delivered by electronic mail must be filed with the
 26 appropriate office not later than noon seven (7) days after the date
 27 of the report.

28 (c) This subsection applies to a report delivered by electronic mail.
 29 Filing of a report occurs under IC 3-5-2-24.5 ~~when the hard copy is~~
 30 ~~printed out and the office records the date and time of the printout on~~
 31 ~~the report: on the date and at the time electronically recorded by the~~
 32 **office's computer system.** If a discrepancy exists between the text of
 33 the electronic mail and the printed report, the text of the printed report
 34 prevails until an amendment is filed under this article to correct the
 35 discrepancy.

36 (d) An office is not required to accept a report or statement required
 37 under this article by facsimile transmission. Upon approval of a policy
 38 by the commission or a county election board to receive reports or
 39 statements by facsimile transmission, the election division or the
 40 county election board may accept the facsimile transmission of a report
 41 or statement.

42 SECTION 40. IC 3-10-6-2.7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.7. (a) This section applies to a town having a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).

(b) A town that has established staggered terms for its town council may adopt an ordinance during the year preceding a municipal election conducted under section 2 of this chapter changing:

- (1) the length of term of office for town legislative body members and the clerk-treasurer elected at a municipal election not conducted in a general election year; and
- (2) the time municipal elections are held.

(c) The ordinance described in subsection (b) must provide all the following:

- (1) The town legislative body members and the clerk-treasurer elected at the next municipal election not conducted in a general election year serve a term not to exceed four (4) years.
- (2) The successors of the town legislative body members and the clerk-treasurer described in subdivision (1) shall be chosen at a general election specified in the ordinance and serve a term of four (4) years.
- (3) The municipal elections for town offices shall be held during a general election.

SECTION 41. IC 3-11-1.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. A county executive shall establish precincts so that each boundary of each precinct does not cross the boundary of:

- (1) the state;
- (2) a county;
- (3) a township;
- ~~(4) a city;~~
- ~~(5)~~ (4) a district of the House of Representatives of the Congress of the United States;
- ~~(6)~~ (5) a district of the senate of the general assembly; or
- ~~(7)~~ (6) a district of the house of representatives of the general assembly.

SECTION 42. IC 3-11-1.5-5, AS AMENDED BY P.L.212-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. A county executive shall establish precincts so



that each boundary of each precinct follows:

- (1) a boundary described in section 4 of this chapter;
- (2) a boundary of a **city or** town;
- (3) a boundary of a town legislative body district;
- (4) a boundary of a census block established by the Bureau of the Census and depicted in the GIS; or
- (5) a boundary of a school corporation that does not follow a census block line.

SECTION 43. IC 3-11-1.5-25, AS AMENDED BY P.L.212-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. **In addition to the period specified in section 25.5 of this chapter**, a precinct establishment order may not become effective during the following periods:

- (1) In a year in which a general election is held, the period beginning on the first day that a declaration of candidacy may be filed under IC 3-8-2-4 and ending the day following general election day.
- (2) For precincts located wholly or partially within a municipality, after January 31 and before the day following municipal election day, in a year in which a municipal election is held.

SECTION 44. IC 3-11-1.5-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 25.5. (a) A precinct establishment order may not take effect during the period:**

- (1) **beginning August 1 of the year preceding a year in which a federal decennial census is conducted; and**
- (2) **ending on the latest effective date of the redistricting plans for the election of:**

- (A) **United States Representatives;**
 - (B) **senators in the general assembly; and**
 - (C) **representatives in the general assembly;**
- adopted in the year following a federal decennial census.**

(b) **Whenever a precinct boundary splits a census block, the office may move the precinct boundaries to the next whole census block for the purpose of the tabulation of the population before a federal decennial census.**

(c) **The office shall transmit all changes in precinct boundaries made in accordance with subsection (b) to:**

- (1) **the election division; and**
- (2) **the clerk of the circuit court of each county in which the precincts are located.**

SECTION 45. IC 3-11-1.5-25.7 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2002]: **Sec. 25.7. (a) This section applies to the redistricting plans prepared after November 8, 2011, for the following:**

(1) A board of county commissioners under IC 36-2-2-4.

(2) A county fiscal body under IC 36-2-3-4.

(3) A municipal legislative body under:

(A) IC 36-3-4-3;

(B) IC 36-4-6-3;

(C) IC 36-4-6-4;

(D) IC 36-4-6-5;

(E) IC 36-5-1-10.1;

(F) IC 36-5-2-4.1; or

(G) IC 36-5-2-4.2.

(4) A township legislative body under IC 36-6-6-2.5.

(5) Any other local governmental body or office required periodically to establish or revise its districts.

(b) Except as provided in subsection (c), a redistricting plan must use the precinct boundaries used in preparing the redistricting plans for the election of:

(1) United States Representatives;

(2) senators in the general assembly; and

(3) representatives in the general assembly;

adopted after the latest federal decennial census.

(c) A redistricting plan must:

(1) assign territory described in an annexation ordinance; and

(2) unassign territory described in a disannexation ordinance;

not incorporated into the precinct boundaries described in subsection (b).

SECTION 46. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [JULY 1, 2002] [EFFECTIVE JULY 1, 2002]: **Sec. 31. (a)** After the co-directors have reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

(1) approve a proposed precinct establishment order under this section no later than the following January 31; and

(2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held.

(b) This subsection applies to a county that has a precinct that crosses a city boundary in violation of section 4(4) of this chapter. Notwithstanding section 25 of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance



with section 4(4) of this chapter by December 31 preceeding the year in which the municipal election will be held; the commission may issue an order establishing precincts that comply with section 4(4) of this chapter after January 15 and before the following February 16.

SECTION 47. IC 3-11-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The nominees of a political party or group of petitioners shall be listed on the ballots **in type with uniform capital letters and with uniform space between each name** under the name and device of the party or petitioners as designated by them in their certificate or petition, or if none is designated, then under some suitable name and device. If the same device for designating candidates is selected by two (2) parties or groups of petitioners, it shall be given to the one (1) that first selected it, and a suitable device shall be selected for the other party or group of petitioners.

SECTION 48. IC 3-11-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) **If a member of the county election board has verifiable information that an election ballot for the member's county does not comply with the requirements of this chapter or is not in the form required by law, the member may file a petition with the commission protesting the ballot form not later than five (5) days after the member receives the information concerning the election ballot.**

(b) **The petition must specify the manner in which the election ballot does not comply with the requirements of this chapter or is not in the form required by law, including a reference by citation to the specific statutory requirement involved.**

(c) **The county election board member who files a petition under subsection (a) shall serve a copy of the petition upon the other members of the county election board and the circuit court clerk, if the clerk is not a member of the county election board, at the time the petition is filed with the commission.**

(d) **Upon receipt of a petition filed under subsection (a), the commission shall make an investigation in accordance with IC 3-6-4.1-21(b).**

(e) **If the commission determines there is reason to believe that the election ballot does not comply with the requirements of this chapter or is not in the form required by law, the commission shall hold a hearing under IC 3-6-4.1-25.**

(f) **If, after the hearing, the commission determines that the ballot fails to comply with one (1) or more of the requirements of**



1 **this chapter or is otherwise not in the form required by law, the**
 2 **commission shall take the action it considers appropriate under**
 3 **IC 3-6-4.1-21(c).**

4 SECTION 49. IC 3-11-3-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) The election
 6 division shall have printed and shall distribute to the circuit court clerk
 7 of each county at each general election **the following:**

8 (1) If only paper ballots are used, the number of state paper
 9 ballots (and presidential ballots in a presidential election year)
 10 equal to one hundred percent (100%) of the number of voters in
 11 the county. ~~and~~

12 (2) If voting machines, ballot card voting systems, or electronic
 13 voting systems are used, only the number of presidential and state
 14 paper ballots that, in the election division's judgment, are
 15 necessary to meet an emergency.

16 **(3) After December 31, 2003, the number of provisional**
 17 **ballots for state offices (and provisional ballots for President**
 18 **of the United States in presidential election years) that the**
 19 **election division considers necessary.**

20 (b) The paper ballots shall be wrapped in packages, plainly marked,
 21 and securely sealed.

22 (c) **The provisional ballots shall be separately wrapped in**
 23 **packages from the other paper ballots, plainly marked, and**
 24 **securely sealed.**

25 (d) The clerk shall give a receipt for the paper ballots **and the**
 26 **provisional ballots.**

27 SECTION 50. IC 3-11-3-6, AS AMENDED BY P.L.176-1999,
 28 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2003]: Sec. 6. (a) The election division shall deliver:

30 (1) the state and presidential paper ballots; **and**

31 **(2) after December 31, 2003, the provisional ballots for state**
 32 **offices and presidential provisional ballots;**

33 by certified mail, or by another means of delivery that includes a return
 34 receipt.

35 **(b) The election division shall mail the paper and provisional**
 36 **ballots to:**

37 (1) each circuit court clerk; or

38 (2) in a county subject to IC 3-6-5.2, the director of the board of
 39 elections and registration.

40 SECTION 51. IC 3-11-3-11 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. The county
 42 election board shall deliver the following to each inspector or the

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inspector's representative:

(1) The sealed package of paper ballots, **provisional ballots**, sample ballots, and any other supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, ~~and the~~ ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where voting machines, ballot card systems, or electronic voting systems are to be used, the number of paper ballots that will be required for emergency purposes only.

(4) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope.

SECTION 52. IC 3-11-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 30. The circuit court clerk, if time permits before the ballots are delivered to the precincts, the poll clerks, or members of the absentee voter board, shall put one (1) of the pasters required by sections 29 and 29.5 of this chapter in the proper place on each ballot label bearing the name of the former candidate and on each paper ballot, **provisional ballot**, or ballot card to be voted in the precinct before they sign their initials on the ballot. The circuit court clerk shall put one (1) of the pasters on each ballot to be voted by an absentee voter before the clerk signs the ballot.

SECTION 53. IC 3-11-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 31. (a) Each county election board shall preserve the unused ballots that are left over after supplying the precincts, as prescribed by section 11 of this chapter. The ballots shall be preserved until expiration of the time for filing a contest or recount petition under IC 3-12.

(b) The board shall then destroy all of the ballots, except for one (1) **regular ballot and one (1) provisional ballot**.

SECTION 54. IC 3-11-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 32. (a) The county election board shall securely paste the one (1) **regular** ballot that was preserved under section 31 of this chapter in the election record immediately before the ~~place where the vote is to be recorded~~. **provisional ballot placed under subsection (b)**. The board shall also

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enter below the ballot the number of ballots:

- (1) printed by the board;
- (2) delivered to each messenger; and
- (3) destroyed by the board.

(b) The county election board shall securely paste the one (1) provisional ballot that was preserved under section 31 of this chapter in the election record immediately after the regular ballot placed in the record under subsection (a) and immediately before the place where the vote is to be recorded. The board shall also enter below the provisional ballot the number of provisional ballots:

- (1) printed by the board;**
- (2) delivered to each messenger; and**
- (3) destroyed by the board.**

SECTION 55. IC 3-11-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 0.5. For purposes of this chapter, an absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

- (1) sent by United States mail addressed to the voter;**
- (2) transmitted by fax to a number provided by the voter; or**
- (3) personally given to the voter.**

SECTION 56. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 1. (a) A voter who is otherwise qualified to vote in person including a person eligible to vote under IC 3-10-11 or IC 3-10-12, but who expects to be:**

- (1) absent from the county on election day;**
- (2) absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8, as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10, as a challenger or pollbook holder under IC 3-6-7, or as a person employed by an election board to administer the election for which the absentee ballot is requested;**
- (3) confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;**
- (4) a voter with disabilities;**
- (5) an elderly voter;**
- (6) prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury; or**
- (7) scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;**

is eligible entitled to vote by absentee ballot. Except as otherwise

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provided in this chapter, a voter voting by absentee ballot must vote in the office of the circuit court clerk or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person ~~including a person eligible to vote under IC 3-10-11 or IC 3-10-12~~, to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person ~~including a person eligible to vote under IC 3-10-11 or IC 3-10-12~~, to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 57. IC 3-11-4-2, AS AMENDED BY P.L.38-1999, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) A voter who ~~is eligible~~ wants to vote by absentee ballot must apply to the county election board for an official absentee ballot.

(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 58. IC 3-11-4-3, AS AMENDED BY P.L.176-1999, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on **election day if the voter registers to vote under IC 3-7-36-14.**

(2) **Noon** on the day before election day if the voter completes the application in the office of the circuit court clerk.



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1 (2) (3) Noon on the day before election day if:

2 (A) the application is a mailed or hand delivered application
3 from a confined voter or voter caring for a confined person;
4 and

5 (B) the applicant requests that the absentee ballots be
6 delivered to the applicant by an absentee voter board.

7 (3) (4) Midnight on the eighth day before election day if the
8 application:

9 (A) is a mailed application; or

10 (B) was transmitted by a ~~facsimile~~ fax; ~~machine~~;
11 from other voters.

12 (b) This subsection applies to an absentee ballot application from a
13 confined voter or voter caring for a confined person that is sent by
14 ~~facsimile~~ fax, ~~transmission~~, mailed, or hand delivered to the circuit
15 court clerk of a county having a consolidated city. An application
16 subject to this subsection that is sent by ~~facsimile~~ fax ~~transmission~~ or
17 hand delivered must be received by the circuit court clerk not earlier
18 than ninety (90) days before election day nor later than 10 p.m. on the
19 fifth day before election day. An application subject to this subsection
20 that is mailed must be received by the circuit court clerk not earlier
21 than ninety (90) days before election day and not later than 10 p.m. on
22 the eighth day before election day.

23 SECTION 59. IC 3-11-4-4 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a)
25 Applications may be made:

26 (1) in person;

27 (2) by fax transmission; or

28 (3) by mail;

29 on application forms furnished by the county election board or
30 approved by the commission.

31 (b) Application forms shall:

32 (1) be furnished to all central committees in the county no later
33 than:

34 (A) June 15, for a general election or a special election ordered
35 under IC 3-12-8-17 or IC 3-12-11-18 following the primary
36 election; or

37 (B) January 15, for a primary election or a special election
38 ordered under IC 3-12-8-17 or IC 3-12-11-18 following the
39 general election;

40 (2) be:

41 (A) mailed; or

42 (B) ~~except as provided in subsection (c)~~; transmitted by fax;

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1 ~~machine;~~
 2 upon request, to a voter applying by mail, by telephone, or by fax;
 3 ~~transmission;~~ and
 4 (3) be delivered to a voter in person who applies at the circuit
 5 court clerk's office.

6 (c) The county election board shall:

7 (1) accept; and

8 (2) transmit;

9 applications for absentee ballots under subsection (a) ~~using a facsimile~~
 10 ~~(FAX) machine. only if the county election board owns or has access~~
 11 ~~to a FAX machine. However, by fax.~~ A county election board shall
 12 accept an application for an absentee ballot transmitted by fax ~~machine~~
 13 even though the application is delivered to the county election board by
 14 a person other than the person submitting the application.

15 SECTION 60. IC 3-11-4-6, AS AMENDED BY P.L.273-2001,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JANUARY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding
 18 any other provision of this title, to absentee ballot applications for ~~the~~
 19 **following:**

20 (1) An absent uniformed services voter. ~~(as defined in 42 U.S.C.~~
 21 ~~1973ff-6(1)); and~~

22 (2) An address confidentiality program participant (as defined in
 23 IC 5-26.5-1-6).

24 **(3) An overseas voter.**

25 (b) A county election board shall make blank absentee ballot
 26 applications available for persons covered by this section after
 27 November 20 preceding the election to which the application applies.
 28 Except as provided in subsection (c), the person may apply for an
 29 absentee ballot at any time after the applications are made available.

30 (c) A person covered by this section may apply for an absentee
 31 ballot for the next scheduled primary, general, or special election at any
 32 time by filing a standard form approved under 42 U.S.C. 1973ff(b).

33 (d) If the county election board receives an absentee ballot
 34 application from a person described by this section, the circuit court
 35 clerk shall mail to the person, free of postage as provided by 39 U.S.C.
 36 3406, all ballots for the election immediately upon receipt of the ballots
 37 under sections 13 and 15 of this chapter.

38 (e) ~~Whenever an absent uniformed services voter or an address~~
 39 ~~confidentiality program participant (as defined in IC 5-26.5-1-6) a~~
 40 **voter described in subsection (a)** files an application for a primary
 41 election absentee ballot and indicates on the application that:

42 (1) the voter is an absent uniformed services voter and does not

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1 expect to be in the county on general election day and on the date
 2 of any special election conducted during the twelve (12) months
 3 following the date of the application; ~~or~~

4 (2) the voter is an address confidentiality program participant; **or**
 5 **(3) the voter is an overseas voter and does not expect to be in**
 6 **the county on general election day and on the date of any**
 7 **special election conducted during the twelve (12) months**
 8 **following the date of the application;**

9 the application is an adequate application for a general election
 10 absentee ballot under this chapter and an absentee ballot for a special
 11 election conducted during the twelve (12) months following the date of
 12 the application. The circuit court clerk and county election board shall
 13 process this application and ~~mail~~ **send** general election and special
 14 election absentee ballots to the voter in the same manner as other
 15 general election and special election absentee ballot applications and
 16 ballots are processed and ~~mailed~~ **sent** under this chapter.

17 (f) The name, address, telephone number, and any other identifying
 18 information relating to a program participant (as defined in
 19 IC 5-26.5-1-6) in the address confidentiality program, as contained in
 20 a voting registration record, is declared confidential for purposes of
 21 IC 5-14-3-4(a)(1). The county voter registration office may not disclose
 22 for public inspection or copying a name, an address, a telephone
 23 number, or any other information described in this subsection, as
 24 contained in a voting registration record, except as follows:

25 (1) To a law enforcement agency, upon request.

26 (2) As directed by a court order.

27 (g) ~~This subsection applies to a county election board that owns or~~
 28 ~~has access to a facsimile (FAX) machine.~~ The county election board
 29 ~~may shall~~ transmit and receive absentee ballots by fax ~~machine~~ to
 30 ~~voters covered under the Uniformed and Overseas Absentee Voting~~
 31 ~~Act (42 U.S.C. 1973ff) under the following circumstances:~~

32 ~~(1) If an emergency is declared by the President of the United~~
 33 ~~States, the Congress of the United States, or the presidential~~
 34 ~~designee under the Uniformed and Overseas Absentee Voting Act~~
 35 ~~(42 U.S.C. 1973ff).~~

36 ~~(2) If otherwise mandated to do so under federal law.~~

37 **an absent uniformed services voter or an overseas voter at the**
 38 **request of the voter. If the voter wants to submit absentee ballots**
 39 **by fax, the voter must separately sign and date a statement on the**
 40 **cover of the fax transmission that states substantively the**
 41 **following: "I understand that by faxing my voted ballot I am**
 42 **voluntarily waiving my right to a secret ballot."**



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(h) The county election board shall send confirmation to an absent uniformed services voter that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If the voter does not provide a fax number or an electronic mail address, the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 61. IC 3-11-4-7, AS AMENDED BY P.L.273-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 7. (a) An absentee ballot application under section 6 of this chapter must

(1) be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter. and

(2) show that the: (b) An absentee ballot application under section 6 of this chapter from an:

(A) (1) absent uniformed services voter; (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) (2) address confidentiality program participant (as defined in IC 5-26.5-1-6);

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) An absentee ballot application under section 6 of this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

SECTION 62. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Except as provided in subsection (b); an overseas voter may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used:



(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

(c) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (d), the person may apply for an absentee ballot at any time after the applications are made available.

(d) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(e) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage to the extent as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(f) Whenever an overseas voter files an application for a primary election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.

SECTION 63. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record **all of the following**:

- (1) The voter's name.
- (2) The date the application is received.
- (3) The date the ballot is mailed or delivered sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) **If transmitted by fax, the fax number to which the ballot is faxed.**
- (6) The date the ballot is marked before the clerk or otherwise received from the voter. **and**
- ~~(6)~~ (7) Any other information that is necessary or advisable.



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SECTION 64. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 18. (a) If a voter ~~is entitled to vote an absentee ballot~~, **satisfies any of the following**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

(1) **The voter will be absent from the county on election day.**

(2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**

(A) **a precinct election officer under IC 3-6-5 or IC 3-6-6;**

(B) **a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;**

(C) **a challenger or pollbook holder under IC 3-6-7; or**

(D) **a person employed by an election board to administer the election for which the absentee ballot is requested.**

(3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**

(4) **The voter is a voter with disabilities.**

(5) **The voter is an elderly voter.**

(6) **The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.**

(7) **The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.**

(8) **The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.**

(b) The ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(c) In addition to the ballot mailed under subsection (b), the county election board shall mail a special absentee ballot for

~~(1) absent uniformed services voters; and~~

~~(2) overseas voters.~~

~~who will be outside of the United States on general election day.~~

(d) The ballot described in subsection (c):

(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

(B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

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1 whichever is later; and

2 (2) may not be mailed after the absentee ballots described by
3 section 13(a) of this chapter have been delivered to the circuit
4 court clerk or the clerk's authorized deputy.

5 SECTION 65. IC 3-11-4-22 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. Each circuit
7 court clerk shall **do both of the following**:

8 (1) Keep a separate absentee ballot record for each precinct in the
9 county. ~~and~~

10 (2) Certify to each inspector, at the time that the absentee ballots
11 are delivered, **all the following**:

12 (A) The number of absentee ballots ~~delivered or mailed sent~~
13 to each absentee voter.

14 (B) The number of absentee ballots marked before the clerk.
15 ~~and~~

16 (C) The names of the voters to whom the ballots were
17 ~~delivered or mailed sent~~ or who marked ballots in person.

18 SECTION 66. IC 3-11-8-4.3 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.3. ~~If a precinct~~
20 ~~contains less than two hundred fifty (250) active voters;~~ (a) The county
21 executive may locate the polls for ~~the a~~ precinct at the polls for an
22 adjoining precinct, using the precinct election board of the adjoining
23 precinct, **if all the following apply**:

24 (1) **The county election board has adopted a general**
25 **resolution stating the number of active voters in a precinct**
26 **that the county election board will use when determining**
27 **whether to apply this section to a precinct.**

28 (2) **The precinct has fewer active voters than the number**
29 **stated in the resolution described in subdivision (1).**

30 (3) **The county election board, by unanimous vote of the**
31 **board's entire membership, adopts a resolution to locate the**
32 **polls of the precinct at the adjacent precinct.**

33 **(b) A resolution adopted by a county election board under**
34 **subsection (a)(3) expires the day after the election to which the**
35 **resolution applies.**

36 SECTION 67. IC 3-11-8-22 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. **(a)** A voter
38 challenged under section 20 of this chapter may vote if the voter makes
39 an affidavit in writing that the voter is a legal voter of the precinct and
40 **either of the following applies**:

41 (1) The voter's name appears on the registration list. ~~or~~

42 (2) The voter does one (1) of the following:

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(A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.

(B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those provisions.

(C) Makes an oral or a written affirmation under IC 3-10-12.

(b) After December 31, 2003, a voter challenged under section 20 of this chapter:

(1) whose name does not appear on the registration list; and

(2) who is not permitted to cast a vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;

is entitled to cast a provisional ballot under IC 3-11.7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.

SECTION 68. IC 3-11-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

(1) A statement that the voter is a citizen of the United States.

(2) The voter's date of birth to the best of the voter's information and belief.

(3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.

(4) The voter's name and a statement that the voter is generally known by that name.

(5) A statement that the voter has not voted and will not vote in any other precinct in this election.

(6) The voter's occupation.

(7) The voter's current residential address, including the street or number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter moved.

(8) A statement that the voter understands that making a false statement on the affidavit is punishable under the penalties of perjury.

(9) After December 31, 2003, if the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7,

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1 **IC 3-10-10, IC 3-10-11-2, or IC 3-10-12, a statement that the**
 2 **individual registered to vote and where the individual believes**
 3 **the individual registered to vote.**

4 SECTION 69. IC 3-11-10-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. **(a)** A voter
 6 voting by absentee ballot shall make and subscribe to the affidavit
 7 prescribed by IC 3-11-4-21. The voter then shall, **except as provided**
 8 **in subsection (b), do the following:**

- 9 (1) Mark the ballot in the presence of no other person.
- 10 (2) Fold each ballot separately.
- 11 (3) Fold each ballot so as to conceal the marking.
- 12 (4) Enclose each ballot, with the seal and signature of the circuit
- 13 court clerk on the outside, together with any unused ballot, in the
- 14 envelope provided.
- 15 (5) Securely seal the envelope. ~~and~~
- 16 (6) Do one (1) of the following:
 - 17 (A) Mail the envelope to the county election board, with not
 - 18 more than one (1) ballot per envelope.
 - 19 (B) Deliver the envelope to the county election board in
 - 20 person.
 - 21 (C) Deliver the envelope to a member of the voter's household
 - 22 or a person designated as the attorney in fact for the voter
 - 23 under IC 30-5.

24 **(b) A voter permitted to transmit the voter's absentee ballots by**
 25 **fax under IC 3-11-4-6 is not required to comply with subsection (a).**
 26 **The individual designated by the circuit court clerk to receive**
 27 **absentee ballots transmitted by fax shall do the following upon**
 28 **receipt of an absentee ballot transmitted by fax:**

- 29 (1) Note the receipt of the absentee ballot in the records of the
- 30 circuit court clerk as other absentee ballots received by the
- 31 circuit court clerk are noted.
- 32 (2) Fold each ballot received from the voter separately so as
- 33 to conceal the marking.
- 34 (3) Enclose each ballot in a blank absentee ballot envelope.
- 35 (4) Securely seal the envelope.
- 36 (5) Mark on the envelope: "Absentee Ballot Received by Fax".
- 37 (6) Securely attach to the envelope the faxed affidavit received
- 38 with the voter's absentee ballots.

39 **(c) Except as otherwise provided in this title, absentee ballots**
 40 **received by fax shall be handled and processed as other absentee**
 41 **ballots received by the circuit court clerk are handled and**
 42 **processed.**



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SECTION 70. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) **This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6.** The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) **This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.**

~~(b)~~ (d) If a member of the absentee voter board questions whether a signature on a ballot envelope **or transmitted affidavit** is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 71. IC 3-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "The county election board has questioned the genuineness of the signature of this voter.". These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this chapter.

SECTION 72. IC 3-11-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.



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SECTION 73. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 74. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail **or fax** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 75. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall **do all of the following:**

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name. ~~and~~
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit attached to the ballot envelope.**

SECTION 76. IC 3-11-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each

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1 ballot enclosed without unfolding or permitting a ballot to be unfolded
2 or examined.

3 (b) The inspector shall then hand the ballots to the judges who shall
4 deposit the ballots in the proper ballot box and enter the absentee
5 voter's name on the poll list, as if the absentee voter had been present
6 and voted in person. **If the voter has registered and voted under**
7 **IC 3-7-36-14, the inspector shall attach to the poll list the circuit**
8 **court clerk's certification that the voter has registered.**

9 (c) If an absentee ballot is opened under this section in a precinct
10 using voting machines, the precinct election board shall prepare
11 certificates and memoranda under IC 3-12-2-6 that distinguish the
12 votes cast by absentee ballots from votes cast on voting machines.

13 SECTION 77. IC 3-11-10-17, AS AMENDED BY P.L.38-1999,
14 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JANUARY 1, 2003]: Sec. 17. (a) If the inspector finds under section
16 15 of this chapter that **any of the following applies, a ballot may not**
17 **be accepted or counted:**

18 (1) The affidavit is insufficient or the ballot has not been endorsed
19 with the initials of:

20 (A) the two (2) members of the absentee voter board in the
21 office of the circuit court clerk under IC 3-11-4-19 or section
22 26 of this chapter;

23 (B) the two (2) members of the absentee voter board visiting
24 the voter under section 25(b) of the chapter; or

25 (C) the two (2) appointed members of the county election
26 board or their designated representatives under IC 3-11-4-19.

27 (2) A copy of the voter's signature has been furnished to the
28 precinct election board and that the signatures do not correspond
29 or there is no signature.

30 (3) The absentee voter is not a qualified voter in the precinct.

31 (4) The absentee voter has voted in person at the election.

32 (5) The absentee voter has not registered.

33 (6) The ballot is open or has been opened and resealed. **This**
34 **subdivision does not permit an absentee ballot transmitted by**
35 **fax to be rejected because the ballot was sealed in the absentee**
36 **ballot envelope by the individual designated by the circuit**
37 **court to receive absentee ballots transmitted by fax.**

38 (7) The ballot envelope contains more than one (1) ballot of any
39 kind for the same office or public question.

40 (8) In case of a primary election, if the absentee voter has not
41 previously voted, the voter failed to execute the proper
42 declaration relative to age and qualifications and the political

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party with which the voter intends to affiliate. ~~or~~

(9) The ballot has been challenged and not supported.

~~then the ballots may not be accepted or counted.~~

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 78. IC 3-11-10-24, AS AMENDED BY P.L.38-1999, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. (a) Except as provided in subsection (b), ~~each a voter entitled to vote by absentee ballot who satisfies any of the following~~ is entitled to vote by mail:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-5 or IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular

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place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 79. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 25. (a) ~~Voters A~~ **voter who are entitled to vote** by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

~~under IC 3-11-4-1~~ and who ~~are~~ **is** within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and



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(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

SECTION 80. IC 3-11-10-26, AS AMENDED BY P.L.167-2001, SECTION 1, AND P.L.199-2001, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter **is** entitled to cast an absentee ballot ~~may vote by absentee ballot~~ before an absentee voter board:

- (1) in the office of the circuit court clerk; or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

SECTION 81. IC 3-11-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) Before a ballot is voted under section 25 or 26 of this chapter before an absentee voter board, ~~other than the absentee voter board in the office of the circuit court clerk~~, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by:

- (1) the absentee voter board visiting the voter under section 25(b)



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of this chapter (except in a county subject to subsection (c)); or
 (2) the county election board or the board's designated
 representatives under IC 3-11-4-19 if the ballot is cast at the
 office of the circuit court clerk under section 26 of this chapter.

(c) A county election board may adopt a resolution providing that
 the absentee ballots to be voted before an absentee voter board visiting
 the voter under section 25(b) of this chapter must be initialed by the
 county election board or the board's representatives under IC 3-11-4-19
 and not by the absentee voter board visiting the voter. A resolution
 adopted under this subsection remains in effect until rescinded by the
 county election board. The election board may not rescind the
 resolution during the final sixty (60) days before an election.

(d) The initials must be in ink on the back of the ballot, in the
 person's ordinary handwriting or printing, and without a distinguishing
 mark of any kind. No other initialing of the absentee ballot is
 necessary.

SECTION 82. IC 3-11-15-13 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as
 provided in this chapter, to be approved for use in Indiana, a voting
 system shall meet the standards established by the Performance and
 Test Standards for Punchcard, Marksense, and Direct Recording
 Electronic Voting Systems issued by the Federal Election Commission
 on January 25, 1990.

**(b) The commission may adopt rules under IC 4-22-2 to require
 a voting system to meet standards more recent than standards
 described in subsection (a). If the commission adopts rules under
 this subsection, a voting system must meet the standards described
 in the rules instead of the standards described in subsection (a).**

SECTION 83. IC 3-11.5-2-5 IS ADDED TO THE INDIANA CODE
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 JANUARY 1, 2003]: Sec. 5. **An absentee ballot application or an
 absentee ballot is considered "sent" to a voter if the application or
 ballot is:**

- (1) sent by United States mail addressed to the voter;**
- (2) transmitted by fax to a number provided by the voter; or**
- (3) personally given to the voter.**

SECTION 84. IC 3-11.5-4-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. Each circuit
 court clerk shall do the following:

- (1) Keep a separate absentee ballot record for each precinct in the
 county.
- (2) Certify to each inspector or the inspector's representative, at

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the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:

(A) to whom absentee ballots were ~~delivered or mailed sent~~ or who marked ballots in person; and

(B) whose ballots have been received by the county election board under IC 3-11-10.

SECTION 85. IC 3-11.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. If a county election board finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

SECTION 86. IC 3-11.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5."

SECTION 87. IC 3-11.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Each county election board shall certify the names of voters:

(1) to whom absentee ballots were ~~delivered or mailed sent~~ or who marked ballots in person; and

(2) whose ballots have been received by the board under this chapter;

after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have:

(1) the certificates described in subsection (a); **and**

(2) **the circuit court clerk's certificates for voters who have registered and voted under IC 3-7-36-14;**

delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day.

SECTION 88. IC 3-11.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. (a) Upon delivery of the ~~certificate~~ **certificates** under section 8 of this chapter to

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a precinct election board, the inspector shall **do the following in the presence of the poll clerks:**

(1) Mark the poll list. ~~in the presence of the poll clerks.~~

(2) **Attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list.**

The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list **and attached the certificates** under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

(1) the certificate prepared under section 1 of this chapter;

(2) the certificate prepared under section 8 of this chapter; and

(3) any challenge affidavit executed by a qualified person under section 16 of this chapter;

in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier.

SECTION 89. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail **or fax** after noon on election day are considered as arriving too late and may not be counted.

SECTION 90. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in

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the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit.**

SECTION 91. IC 3-11.5-4-13, AS AMENDED BY P.L.38-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that **any of the following applies, the ballots shall be rejected:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-26;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**
- (7) The ballot envelope contains more than one (1) ballot of any kind.
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~
- (9) The ballot has been challenged and not supported.

~~the ballots shall be rejected:~~

- (b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.



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(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 92. IC 3-11.5-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. **(a)** In addition to the preparations described in IC 3-11-11-2, **IC 3-11-12-24, IC 3-11-13-27, or IC 3-11-14-16**, the inspector shall:

(1) mark the poll list; **and**

(2) attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list;

in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 of this chapter.

(b) The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector:

(1) marked the poll list; **and**

(2) attached the certificates described in subsection (a)(2); under this section in the presence of both poll clerks.

(c) The inspector shall retain custody of the certificate **supplied under section 1 of this chapter** until the certificate is returned under section 9 of this chapter.

SECTION 93. IC 3-11.7 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

ARTICLE 11.7. PROVISIONAL VOTING

Chapter 1. Application and General Provisions

Sec. 1. This article applies to all elections held after December 31, 2003.

Sec. 2. (a) Except as provided in subsection (b), a provisional ballot must have the same form as an absentee ballot for:

(1) the election for which the ballot is cast; **and**

(2) the precinct in which the ballot is cast.

(b) A provisional ballot must indicate that the ballot is a provisional ballot and not an absentee ballot.

Sec. 3. Except as otherwise provided in this article, the procedures described in this title for paper ballots apply to provisional ballots.

Sec. 4. Each circuit court clerk shall:

(1) not less than sixty (60) days before the date on which a

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1 general, primary, or municipal election is held; or
 2 (2) not more than three (3) days after the date on which a
 3 special election is ordered;
 4 estimate the number of provisional ballots that will be required in
 5 the county for the election.

6 **Sec. 5. (a) Provisional ballots for:**

- 7 (1) President and Vice President of the United States;
 8 (2) United States Senator;
 9 (3) United States Representative;
 10 (4) all state offices; and
 11 (5) the ratification or rejection of a public question to be voted
 12 for by the electorate of the entire state or for the retention of
 13 a judge of the Indiana supreme court or the Indiana court of
 14 appeals;

15 shall be prepared and printed under the direction of the election
 16 division.

17 (b) The election division shall have the ballots printed upon
 18 certification of the political party tickets and independent
 19 candidates.

20 (c) Ballots prepared under this section must provide space for
 21 the provisional voter to cast a write-in ballot.

22 (d) The provisional ballots that are prepared and printed under
 23 this section shall be delivered to the circuit court clerk or the
 24 clerk's authorized deputy not later than forty-five (45) days before
 25 a general election or twenty-nine (29) days before a special election.
 26 The provisional ballots shall be delivered in the same manner that
 27 other official ballots are delivered.

28 **Sec. 6.** Each provisional ballot must be signed by the circuit
 29 court clerk or an individual authorized by the circuit court clerk
 30 and have the circuit court clerk's seal affixed.

31 **Sec. 7.** The county election board shall provide to each precinct
 32 election board envelopes marked "Provisional Ballot" in which a
 33 provisional voter places the voter's provisional ballot.

34 **Sec. 8.** Each package of provisional ballots delivered to a circuit
 35 court clerk shall be plainly marked on an appropriate attached
 36 label with the words: "This package contains _____ (giving
 37 number of ballots) provisional ballots.". The clerk shall securely
 38 keep all ballots in the clerk's office and shall distribute them to
 39 applicants as provided in this article.

40 **Chapter 2. Casting a Provisional Ballot**

41 **Sec. 1. An individual:**

- 42 (1) whose name does not appear on the registration list; and

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(2) who is not permitted to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;
may cast a provisional ballot if the individual executes an affidavit described in IC 3-11-8-23.

Sec. 2. (a) A provisional voter shall do the following:

- (1) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.
- (5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

Sec. 4. At the close of the polls, the precinct election board shall seal:

- (1) all the provisional ballots; and
- (2) any spoiled provisional ballots;

in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained. The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

Chapter 3. Provisional Ballot Counters

Sec. 1. Each county election board shall appoint teams of provisional ballot counters consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an



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unopposed candidate for precinct committeeman or state convention delegate; or

(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

Sec. 3. Not later than noon ten (10) days before an election, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of teams of counters to be appointed under this section.

Sec. 4. The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before the election. The county election board shall make the appointments as recommended.

Sec. 5. If a county chairman fails to make any recommendations, the county election board may appoint any voters of the county.

Sec. 6. An individual serving as an absentee ballot counter under IC 3-11.5-4-12 may also serve as a provisional ballot counter under this chapter.

Chapter 4. Watchers for Political Parties, Candidates, and the Media

Sec. 1. The following apply for the purposes of IC 3-6-8, IC 3-6-9, and IC 3-6-10:

(1) The location for counting provisional ballots shall be treated the same as a precinct poll.

(2) A provisional ballot counter shall be treated the same as a precinct election official.

Sec. 2. (a) Political parties or independent candidates described in IC 3-6-8-1 may appoint watchers at the location for counting provisional ballots.

(b) A watcher appointed under this section:

(1) has the rights; and

(2) must follow the requirements;

set forth in IC 3-6-8.

Sec. 3. (a) A candidate entitled to appoint a watcher under IC 3-6-9 may appoint a watcher at the location for counting

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1 provisional ballots.

2 (b) A watcher appointed under this section:

3 (1) has the rights; and

4 (2) must follow the requirements;

5 set forth in IC 3-6-9.

6 Sec. 4. (a) Media entitled to appoint a watcher under IC 3-6-10
7 may appoint a watcher at the location for counting provisional
8 ballots.

9 (b) A watcher appointed under this section:

10 (1) has the rights; and

11 (2) must follow the requirements;

12 set forth in IC 3-6-10.

13 Chapter 5. Counting Provisional Ballots

14 Sec. 1. (a) After the close of the polls, provisional ballots shall be
15 counted as provided in this chapter.

16 (b) All provisional ballots must be counted by not later than
17 noon on the Monday following the election.

18 Sec. 2. (a) Except as provided in section 5 of this chapter, if the
19 county election board determines that all the following apply, a
20 provisional ballot is valid and shall be counted under this chapter:

21 (1) The affidavit executed by the provisional voter under
22 IC 3-11.7-2-1 is properly executed.

23 (2) The provisional voter is a qualified voter of the precinct.

24 (3) Based on all the information available to the county
25 election board, including:

26 (A) information provided by the provisional voter;

27 (B) information contained in the county's voter
28 registration records; and

29 (C) information contained in the statewide voter
30 registration file;

31 the provisional voter registered to vote at a registration
32 agency under this article on a date within the registration
33 period.

34 (b) If the provisional voter has provided information regarding
35 the registration agency where the provisional voter registered to
36 vote, the board may not determine that the provisional voter did
37 not register unless both of the following apply:

38 (1) The board makes an actual inquiry of the registration
39 agency where the provisional voter states the provisional
40 voter registered.

41 (2) The registration agency informs the board that the
42 registration agency has no record of the provisional voter's

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1 registration.

2 Sec. 3. (a) If the board determines that section 2(a)(1), 2(a)(2),
3 or 2(a)(3) of this chapter does not apply, all the following apply:

4 (1) The provisional ballot is invalid.

5 (2) The provisional ballot may not be counted.

6 (3) The provisional ballot envelope containing the ballots cast
7 by the provisional voter may not be opened.

8 (b) If the county election board determines that a provisional
9 ballot is invalid, a notation shall be made on the provisional ballot
10 envelope: "Provisional ballot determined invalid.".

11 Sec. 4. If the board determines that a provisional ballot is valid
12 under section 2 of this chapter, the provisional ballot envelope shall
13 be opened. The outside of each provisional ballot shall also be
14 marked to identify the precinct and the date of the election of the
15 ballots.

16 Sec. 5. (a) If any ballot cast by a provisional voter does not
17 contain the initials of the poll clerks, the ballot shall, without being
18 unfolded to disclose how the ballot is marked, be endorsed with the
19 word "Rejected".

20 (b) All rejected provisional ballots shall be enclosed and
21 securely sealed in an envelope on which is written "Rejected
22 provisional ballots.".

23 Sec. 6. The provisional ballots shall be counted by laying each
24 ballot upon a table in the order in which the ballots were opened.

25 Sec. 7. (a) During the counting of the ballots, one (1) counter
26 shall read the name of the candidates voted for from the ballots.

27 (b) A:

28 (1) member of the county election board who is not a member
29 of the same political party as the counter; or

30 (2) representative designated by the member;

31 shall view the ballots as the names are read.

32 Sec. 8. During the counting of the ballots:

33 (1) the counter counting the ballots;

34 (2) a member of the county election board; or

35 (3) a representative designated by the member;

36 may protest the counting of any ballot or any part of a ballot.

37 Sec. 9. If the counters cannot agree whether to count a ballot
38 following a protest under section 8 of this chapter, the question
39 shall be referred to the county election board for a decision.

40 Sec. 10. Following a decision by the counters or the county
41 election board, the counters shall sign each protested ballot.

42 Sec. 11. If a ballot or any part of a ballot is protested and the

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1 protest is resolved, the counter immediately shall write on the back
2 of the protested ballot the word "counted" or "not counted", as
3 appropriate.

4 Sec. 12. A counter may not count provisional ballots for a
5 precinct under this chapter while counting provisional ballots for
6 any other precinct.

7 Sec. 13. (a) This section applies if at least two (2) sets of counters
8 in a county are counting provisional ballots under this chapter.

9 (b) A set of counters may count provisional ballots from a
10 precinct while another set of counters is counting provisional
11 ballots from another precinct in the county if each set of counters
12 counts the ballots in compliance with section 7 of this chapter.

13 Sec. 14. (a) This section applies to the counting of write-in
14 provisional ballots.

15 (b) If a voter writes an abbreviation, a misspelling, or other
16 minor variation instead of the correct name of a candidate or
17 political party, that vote shall be counted if the intent of the voter
18 can be determined.

19 (c) If a voter casts a ballot under this section for President or
20 Vice President of the United States and writes in the name of a
21 candidate or political party that has not certified a list of electors
22 under IC 3-10-4-5, the vote for President or Vice President of the
23 United States is void. The remaining votes on the ballot may be
24 counted.

25 (d) IC 3-12-1-7 applies to write-in provisional ballots.

26 Sec. 15. When all the votes have been counted, the counters shall
27 prepare a certificate stating the number of votes that each
28 candidate received for each office and the number of votes cast on
29 each public question.

30 Sec. 16. The number of votes that each candidate and public
31 question received shall be written in words and numbers. The
32 counters shall prepare a memorandum of the total votes cast for
33 each candidate and on each public question and ensure that each
34 member of the county election board receives a copy of the
35 memorandum.

36 Sec. 17. The counters shall deliver the certificates prepared
37 under section 15 of this chapter and the tally papers to the county
38 election board immediately upon the tabulation of the vote in each
39 precinct.

40 Sec. 18. As soon as the ballots have been counted, the counters
41 shall do the following in the presence of the county election board:

42 (1) Place in a strong paper envelope or bag the following:



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- 1 (A) All provisional ballots, voted and spoiled.
- 2 (B) All provisional ballots:
- 3 (i) determined invalid under section 3 of this chapter; or
- 4 (ii) rejected under section 5 of this chapter.
- 5 (C) All protested and uncounted provisional ballots.
- 6 (D) All provisional ballot envelopes.
- 7 (E) All executed affidavits relating to the provisional
- 8 ballots.
- 9 (F) The tally papers.
- 10 (2) Securely seal the envelope or bag.
- 11 (3) Have both counters initial the envelope or bag.
- 12 (4) Plainly mark on the outside of the envelope or bag in ink
- 13 the precinct in which the provisional ballots were cast.
- 14 (5) Deliver the envelope or bag to the circuit court clerk.
- 15 (6) Notify the circuit court clerk of the number of ballots
- 16 placed in the envelope or bag.
- 17 Sec. 19. Upon delivery of the envelope or bag to the circuit court
- 18 clerk, each counter shall take and subscribe an oath before the
- 19 clerk stating that the counter:
- 20 (1) securely kept the ballots and papers in the envelope or
- 21 bag;
- 22 (2) did not permit any person to open the envelope or bag or
- 23 to otherwise touch or tamper with the ballots; and
- 24 (3) has no knowledge of any other person opening the
- 25 envelope or bag.
- 26 Sec. 20. The circuit court clerk shall file the oath taken under
- 27 section 19 of this chapter with the clerk's other election documents.
- 28 Sec. 21. The circuit court clerk shall place the envelope or bag
- 29 in a receptacle provided by the county executive with two (2)
- 30 different locks.
- 31 Sec. 22. The circuit court clerk shall do the following:
- 32 (1) Lock the receptacle provided under section 21 of this
- 33 chapter.
- 34 (2) Retain one (1) key to one (1) lock of the receptacle.
- 35 (3) Give one (1) key to the other lock of the receptacle to the
- 36 member of the county election board who is not a member of
- 37 the same political party as the clerk.
- 38 Sec. 23. The circuit court clerk shall preserve the receptacle
- 39 containing the envelope or bag in the clerk's office for the period
- 40 required under IC 3-10-1-31.
- 41 Sec. 24. If the election is contested, the clerk shall preserve the
- 42 receptacle containing the envelope or bag as long as the contest is

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undetermined. During that period, the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

Sec. 25. When permitted under IC 3-10-1-31, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

Sec. 26. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 has expired.

Sec. 27. Immediately upon completion of the vote count, the counters shall make and sign a certificate for the news media showing the total number of provisional ballot votes received by each candidate and on each public question in the precinct.

Sec. 28. The counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.

Chapter 6. Additional Provisions Relating to Provisional Ballots

Sec. 1. (a) Provisional ballot counters shall conduct the activities conducted by precinct election officials under IC 3-12-4.

(b) The returns of provisional ballot counters shall be treated the same as the returns of a precinct election board under IC 3-12-4.

Sec. 2. A provisional ballot is considered to be cast in the precinct in which the voter who cast the ballot resides for the purpose of the following:

(1) IC 3-12-6.

(2) IC 3-12-11.

(3) IC 3-12-12.

SECTION 94. IC 3-12-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of

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votes by absentee **and provisional** voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county.

SECTION 95. IC 3-12-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 12. **(a) Votes by absentee voters may be cast on any of the following or any combination of the following:**

(1) Paper ballots. ~~or~~

(2) Ballot cards. ~~or both methods may be used.~~

(3) Electronic voting systems, if both of the following are satisfied:

(A) The voting system software is capable of confidentially identifying and deleting the votes cast by an absentee voter who is successfully challenged.

(B) The county election board adopts, by unanimous vote of the board's entire membership, the casting of absentee votes on electronic voting systems.

(b) The ballots may be counted by an automatic tabulating machine or by special canvassing boards appointed by and under the direction of the county election board.

(c) A true copy of each paper absentee ballot may be made on a ballot card which, after being verified in the presence of witnesses, shall be counted in the same manner as other ballot cards.

SECTION 96. IC 3-13-1-7, AS AMENDED BY P.L.260-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Except as provided in subsection (b), action to fill a candidate vacancy must be taken:

(1) not later than noon ~~June 30~~ **July 15** after the primary election if the vacancy exists on a general or municipal election ballot; and

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(2) within thirty (30) days after the occurrence of the vacancy, if the vacancy exists on a special election ballot, subject to section 2 of this chapter.

(b) This subsection applies to a candidate vacancy that exists before the thirtieth day before a general, municipal, or special election and that is due to any of the following:

- (1) The death of a candidate.
- (2) The withdrawal of a candidate.
- (3) The disqualification of a candidate under IC 3-8-1-5.
- (4) A court order issued under IC 3-8-7-29(d).

Action to fill a candidate vacancy under section 3, 4, 5, or 6 of this chapter for reasons permitted under this subsection must be taken within thirty (30) days after the occurrence of the vacancy.

SECTION 97. IC 3-13-1-15, AS AMENDED BY P.L.260-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or

(B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or

(2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 31 before election day.

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(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 98. IC 3-13-1-20, AS AMENDED BY P.L.260-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) This section applies to a political party subject to IC 3-8-4-10.

(b) A candidate vacancy that exists following the convention of the party shall be filled by the state committee of the political party not later than noon ~~June 30~~ **July 15** before election day. The chairman of the state committee shall act in accordance with section 15 of this chapter to certify the candidate selected to fill the vacancy.

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the general election ballot resulting from the failure of the convention to nominate a candidate for an office. The certificate required by subsection (b) shall be filed not later than noon ~~July 3~~ **July 15** before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (b) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 99. IC 3-14-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 27. A precinct election officer ~~who~~, at the close of the polls, ~~or~~ an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6, **or a provisional ballot counter acting under IC 3-11.7-5** who knowingly:

- (1) causes the vote to be incorrectly taken down for a candidate or public question; or
- (2) makes a false statement, certificate, or return of any kind of that vote;

commits a Class D felony.

SECTION 100. IC 3-14-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. A member of a precinct election board, ~~or~~ an absentee ballot counter appointed under IC 3-11.5-4-22, **or a provisional ballot counter appointed under IC 3-11.7-3** who knowingly:

- (1) opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or
- (2) tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a voting machine, ballot card voting system, or electronic voting system or counted by the

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absentee ballot counter;
commits a Class D felony.

SECTION 101. IC 6-1.1-18.5-13.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.6. (a) For an appeal filed under section 12 of this chapter, the local government tax control board may recommend that the department of local government finance give permission to a county to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that the county needs the increase to pay for:**

(1) a new voting system; or

(2) the expansion or upgrade of an existing voting system; under IC 3-11-6.

(b) A county that is granted permission to increase its levy under subsection (a) may not impose the increased levy for more than three (3) calendar years.

SECTION 102. IC 6-1.1-18.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The ~~state board of tax commissioners,~~ **department of local government finance**, upon receiving a recommendation made under section 13, **13.5, 13.6**, or 14 of this chapter, shall enter an order adopting, rejecting, or adopting in part and rejecting in part the recommendation of the local government tax control board. The decision of the ~~state board of tax commissioners~~ **department of local government finance** is final.

SECTION 103. IC 36-1-8-10, AS AMENDED BY P.L.167-2001, SECTION 10, AND AS AMENDED BY P.L.199-2001, SECTION 28, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) As used in this section, "board" means *an* administration, *an* agency, *an* authority, *a* board, *a* bureau, *a* commission, *a* committee, *a* council, *a* department, *a* division, *an* institution, *an* office, *a* service, or ~~other~~ *another* similarly designated body of a political subdivision.

(b) Whenever a law or political subdivision's resolution requires that an appointment to a board be conditioned upon the political affiliation of the appointee, or that the membership of a board not exceed a stated number of members from the same political party, at the time of an appointment, ~~either one~~ **(1)** of the following must apply to the appointee:

(1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation. or



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1 **(2) If the appointee has never voted in a primary election, the**
 2 **appointee claims a party affiliation.**

3 **(3)** The appointee is certified as a member of that party by the
 4 party's county chairman for the county in which the appointee
 5 resides.

6 (c) Notwithstanding any other law, if the term of an appointed
 7 member of a board expires and the appointing authority does not make
 8 an appointment to fill the vacancy, the member may continue to serve
 9 on the board for only sixty (60) days after the expiration date of the
 10 member's term.

11 SECTION 104. IC 36-2-2-4, AS AMENDED BY P.L.122-2000,
 12 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2002]: Sec. 4. (a) This subsection does not apply to a county
 14 having a population of:

15 (1) more than four hundred thousand (400,000) but less than
 16 seven hundred thousand (700,000); or

17 (2) more than two hundred thousand (200,000) but less than three
 18 hundred thousand (300,000).

19 The executive shall divide the county into three (3) districts that are
 20 composed of contiguous territory and are reasonably compact. The
 21 district boundaries drawn by the executive must not cross precinct
 22 boundary lines and must divide townships only when a division is
 23 clearly necessary to accomplish redistricting under this section. If
 24 necessary, the county auditor shall call a special meeting of the
 25 executive to establish or revise districts.

26 (b) This subsection applies to a county having a population of more
 27 than four hundred thousand (400,000) but less than seven hundred
 28 thousand (700,000). A county redistricting commission shall divide the
 29 county into three (3) single-member districts that comply with
 30 subsection (d). The commission is composed of:

31 (1) the members of the Indiana election commission;

32 (2) two (2) members of the senate selected by the president pro
 33 tempore, one (1) from each political party; and

34 (3) two (2) members of the house of representatives selected by
 35 the speaker, one (1) from each political party.

36 The legislative members of the commission have no vote and may act
 37 only in an advisory capacity. A majority vote of the voting members is
 38 required for the commission to take action. The commission may meet
 39 as frequently as necessary to perform its duty under this subsection.
 40 The commission's members serve without additional compensation
 41 above that provided for them as members of the Indiana election
 42 commission, the senate, or the house of representatives.



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(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) in 2001 and every ten (10) years after that; and

(2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

(g) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 105. IC 36-2-3-4, AS AMENDED BY P.L.122-2000, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more



than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) in 2001 and every ten (10) years after that; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

(g) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 106. IC 36-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

(1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is ~~possible~~, **reasonably practical**, equal population; and

(3) do not cross precinct boundary lines **to the extent reasonably practical**.

This division shall be made in 1992 and every ten (10) years after that, and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) **In making the division required by subsection (a), the city-county legislative body shall use the precinct boundary lines used in the most recent countywide election held before the year in which the division is made.**

(c) The legislative body is composed of twenty-five (25) members



1 elected from the districts established under subsection (a) and four (4)
2 members elected from an at large district containing the whole county.

3 ~~(c)~~ **(d)** Each voter of the county may vote for four (4) candidates for
4 at large membership and one (1) candidate from the district in which
5 the voter resides. The four (4) at large candidates receiving the most
6 votes from the whole county and the district candidates receiving the
7 most votes from their respective districts are elected to the legislative
8 body.

9 ~~(d)~~ **(e)** If the legislative body fails to make the division before the
10 date prescribed by subsection (a) or the division is alleged to violate
11 subsection (a) or other law, a taxpayer or registered voter of the county
12 may petition the superior court of the county to hear and determine the
13 matter. There may not be a change of venue from the court or from the
14 county. The court sitting en banc may appoint a master to assist in its
15 determination and may draw proper district boundaries if necessary. An
16 appeal from the court's judgment must be taken within thirty (30) days,
17 directly to the supreme court, in the same manner as appeals from other
18 actions.

19 ~~(e)~~ **(f)** An election of the legislative body held under the ordinance
20 or court judgment determining districts that is in effect on the date of
21 the election is valid, regardless of whether the ordinance or judgment
22 is later determined to be invalid.

23 **(g) After November 8, 2011, a division under this section is**
24 **subject to IC 3-11-1.5-25.7.**

25 SECTION 107. IC 36-4-6-3 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) This section
27 applies only to second class cities.

28 (b) The legislative body shall adopt an ordinance to divide the city
29 into six (6) districts that:

- 30 (1) are composed of contiguous territory, except for territory that
- 31 is not contiguous to any other part of the city;
- 32 (2) are reasonably compact;
- 33 (3) do not cross precinct boundary lines, except as provided in
- 34 subsection (c) or (d); and
- 35 (4) contain, as nearly as is possible, equal population.

36 (c) The boundary of a city legislative body district may cross a
37 precinct boundary line if:

- 38 (1) more than one (1) member of the legislative body elected from
- 39 the districts established under subsection (b) resides in one (1)
- 40 precinct established under IC 3-11-1.5 after the most recent
- 41 municipal election; and
- 42 (2) following the establishment of a legislative body district



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whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

(1) when following a precinct boundary line; or

(2) the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

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- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(m) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 108. IC 36-4-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

- (1) when following a precinct boundary line; or
- (2) the city legislative body certifies in the ordinance that the

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census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative

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1 body.

2 (m) A copy of the ordinance establishing districts under this section
3 must be filed with the circuit court clerk of the county that contains the
4 greatest population of the city no later than thirty (30) days after the
5 ordinance is adopted.

6 (n) If any territory in the city is not included in one (1) of the
7 districts established under this section, the territory is included in the
8 district that:

- 9 (1) is contiguous to that territory; and
10 (2) contains the least population of all districts contiguous to that
11 territory.

12 (o) If any territory in the city is included in more than one (1) of the
13 districts established under this section, the territory is included in the
14 district that:

- 15 (1) is one (1) of the districts in which the territory is described in
16 the ordinance adopted under this section;
17 (2) is contiguous to that territory; and
18 (3) contains the least population of all districts contiguous to that
19 territory.

20 **(p) After November 8, 2011, a division under this section is**
21 **subject to IC 3-11-1.5-25.7.**

22 SECTION 109. IC 36-4-6-5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) This section
24 applies to third class cities having a population of less than ten
25 thousand (10,000). The legislative body of such a city may, by
26 ordinance adopted before September 1, 1982, decide to be governed by
27 this section instead of section 4 of this chapter. If this ordinance is
28 repealed after August 31, 1982, except as a part of a codification of
29 ordinances that reenacts the ordinance under IC 36-1-5-6, then section
30 4 of this chapter again applies to the city. The clerk of the legislative
31 body shall send a certified copy of any ordinance adopted under this
32 subsection to the secretary of the county election board.

33 (b) This subsection does not apply to a city with an ordinance
34 described by subsection (j). The legislative body shall adopt an
35 ordinance to divide the city into four (4) districts that:

- 36 (1) are composed of contiguous territory, except for territory that
37 is not contiguous to any other part of the city;
38 (2) are reasonably compact;
39 (3) do not cross precinct boundary lines except as provided in
40 subsection (c) or (d); and
41 (4) contain, as nearly as is possible, equal population.

42 (c) The boundary of a city legislative body district may cross a

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- 1 precinct boundary line if:
- 2 (1) more than one (1) member of the legislative body elected from
- 3 the districts established under subsection (b) or (j) resides in one
- 4 (1) precinct established under IC 3-11-1.5 after the most recent
- 5 municipal election; and
- 6 (2) following the establishment of a legislative body district
- 7 whose boundary crosses a precinct boundary line, not more than
- 8 one (1) member of the legislative body elected from the districts
- 9 resides within the same city legislative body district.
- 10 (d) The boundary of a city legislative body district may cross a
- 11 precinct line if the districts would not otherwise contain, as nearly as
- 12 is possible, equal population.
- 13 (e) A city legislative body district with a boundary described by
- 14 subsection (c) or (d) may not cross a census block boundary line
- 15 except:
- 16 (1) when following a precinct boundary line; or
- 17 (2) the city legislative body certifies in the ordinance that the
- 18 census block has no population, and is not likely to ever have
- 19 population.
- 20 (f) The legislative body may not adopt an ordinance dividing the city
- 21 into districts with boundaries described by subsection (c) or (d) unless
- 22 the clerk of the city mails a written notice to the circuit court clerk. The
- 23 notice must:
- 24 (1) state that the legislative body is considering the adoption of an
- 25 ordinance described by this subsection; and
- 26 (2) be mailed not later than ten (10) days before the legislative
- 27 body adopts the ordinance.
- 28 (g) The division under subsection (b) or (j) shall be made in 2002,
- 29 every ten (10) years after that, and when required to assign annexed
- 30 territory to a district. This division may be made at any other time,
- 31 subject to IC 3-11-1.5-32.
- 32 (h) This subsection does not apply to a city with an ordinance
- 33 described by subsection (j). The legislative body is composed of four
- 34 (4) members elected from the districts established under subsection (b)
- 35 and one (1) at-large member.
- 36 (i) This subsection does not apply to a city with an ordinance
- 37 described by subsection (j). Each voter may vote for one (1) candidate
- 38 for at-large membership and one (1) candidate from the district in
- 39 which the voter resides. The at-large candidate receiving the most votes
- 40 from the whole city and the district candidates receiving the most votes
- 41 from their respective districts are elected to the legislative body.
- 42 (j) A city may adopt an ordinance under this subsection to divide the

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city into three (3) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in

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the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(q) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 110. IC 36-5-1-10.1, AS AMENDED BY P.L.123-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500); or

(B) divide the town into not less than three (3) nor more than seven (7) districts; and

(2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in

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the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances providing for the incorporation of the town.

(h) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 111. IC 36-5-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.1. (a) The legislative body may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers.

(b) A town legislative body district must comply with the following standards:

(1) The district must be composed of contiguous territory, except for territory that is not contiguous to any other part of the town.

(2) The district must be reasonably compact.

(3) The district must contain, as nearly as is possible, equal population.

(4) The district may not cross a census block boundary except when following a precinct boundary line or when the ordinance specifies that the census block has no population and is not likely to ever have population.

(5) The district may not cross precinct lines, except as provided in subsection (c).

(c) The boundary of a town legislative body district established under subsection (a) may cross a precinct boundary line if:

(1) the legislative body provides by ordinance under section 5 of

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1 this chapter that all legislative body members are to be elected at
2 large by the voters of the whole town; or

3 (2) the district would not otherwise contain, as nearly as is
4 possible, equal population.

5 (d) If any territory in the town is not included in one (1) of the
6 districts established under this section, the territory is included in the
7 district that:

8 (1) is contiguous to that territory; and

9 (2) contains the least population of all districts contiguous to that
10 territory.

11 (e) If any territory in the town is included in more than one (1) of the
12 districts established under this section, the territory is included in the
13 district that:

14 (1) is one (1) of the districts in which the territory is described in
15 the ordinance adopted under this section;

16 (2) is contiguous to that territory; and

17 (3) contains the least population of all districts contiguous to that
18 territory.

19 (f) The ordinance may be appealed in the manner prescribed by
20 IC 34-13-6. If the town is located in two (2) or more counties, the
21 appeal may be filed in the circuit or superior court of any of those
22 counties.

23 (g) This subsection does not apply to a town with an ordinance
24 described by subsection (h). The division permitted by subsection (a)
25 shall be made in 2002, every ten (10) years after that, subject to
26 IC 3-11-1.5-32, and when required to assign annexed territory to a
27 municipal legislative body district. The division may also be made in
28 any other year.

29 (h) This subsection applies to a town having a population of less
30 than three thousand five hundred (3,500). The town legislative body
31 may adopt an ordinance providing that:

32 (1) town legislative body districts are abolished; and

33 (2) all members of the legislative body are elected at large.

34 (i) An ordinance described by subsection (h):

35 (1) may not be adopted or repealed during a year in which a
36 municipal election is scheduled to be conducted in the town under
37 IC 3-10-6 or IC 3-10-7; and

38 (2) is effective upon passage.

39 (j) A copy of the ordinance establishing districts under this section
40 must be filed with the circuit court clerk of the county that contains the
41 greatest population of the town not later than thirty (30) days after the
42 ordinance is adopted.

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1 **(k) After November 8, 2011, a division under this section is**
 2 **subject to IC 3-11-1.5-25.7.**

3 SECTION 112. IC 36-6-6-2.5, AS AMENDED BY P.L.122-2000,
 4 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2002]: Sec. 2.5. (a) This section applies to townships in a
 6 county having a population of more than seven hundred thousand
 7 (700,000).

8 (b) The legislative body shall adopt a resolution that divides the
 9 township into legislative body districts that:

- 10 (1) are composed of contiguous territory;
- 11 (2) are reasonably compact;
- 12 (3) respect, as nearly as reasonably practicable, precinct boundary
- 13 lines; and
- 14 (4) contain, as nearly as reasonably practicable, equal population.

15 (c) Before a legislative body may adopt a resolution that divides a
 16 township into legislative body districts, the secretary of the legislative
 17 body shall mail a written notice to the circuit court clerk. This notice
 18 must:

- 19 (1) state that the legislative body is considering the adoption of a
 20 resolution to divide the township into legislative body districts;
 21 and
- 22 (2) be mailed not later than ten (10) days before the legislative
 23 body adopts the resolution.

24 (d) The legislative body shall make a division into legislative body
 25 districts at the following times:

- 26 (1) In 2001.
- 27 (2) Every ten (10) years after 2002.
- 28 (3) Subject to IC 3-11-1.5-32.5, whenever the boundary of the
 29 township changes.

30 (e) The legislative body may make the division under this section at
 31 any time, subject to IC 3-11-1.5-32.5.

32 **(f) After November 8, 2011, a division under this section is**
 33 **subject to IC 3-11-1.5-25.7.**

34 SECTION 113. IC 3-7-12-3 IS REPEALED [EFFECTIVE UPON
 35 PASSAGE].

36 SECTION 114. IC 3-11-1.5-30 IS REPEALED [EFFECTIVE JULY
 37 1, 2002].

38 SECTION 115. THE FOLLOWING ARE REPEALED
 39 [EFFECTIVE JANUARY 1, 2003]: IC 3-7-36-12; IC 3-7-36-13;
 40 IC 3-11-4-9; IC 3-11.5-4-25; IC 3-11.5-4-26; IC 3-11.5-4-27.

41 SECTION 116. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1101, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 2. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 48.5. "Testing authority" means an independent test authority as described in:

(1) Appendix L of the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued by the Federal Election Commission in January 1990; or

(2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.

SECTION 3. IC 3-5-2-50.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 50.4. "Voter's bill of rights" refers to the statement prescribed by the commission under IC 3-5-8.

SECTION 4. IC 3-5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

Chapter 8. The Voter's Bill of Rights

Sec. 1. The commission shall prescribe a statement of the rights of a voter in Indiana that shall be known as "the voter's bill of rights".

Sec. 2. The statement required by section 1 of this chapter must contain the following:

(1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.

(2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.

(3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.

(4) A statement describing how a voter who is challenged at the polls may be permitted to vote.

(5) A statement informing the voter what assistance is available to assist the voter at the polls.

(6) A statement informing the voter what circumstances will



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spoil the voter's ballot and the procedures available for the voter to request a new ballot.

(7) A statement describing which voters will be permitted to vote at the closing of the polls.

(8) Other information that the commission considers important for a voter to know.

Sec. 3. The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

Sec. 4. The secretary of state or other state agency posting election information on the state's Internet site shall include the voter's bill of rights on the site.

Sec. 5. Not later than thirty (30) days before a primary, general, or municipal election, the secretary of state shall request Indiana news media to include a copy of the voter's bill of rights as part of election coverage or in public service announcements."

Page 8, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 13. IC 3-11-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided in this chapter, to be approved for use in Indiana, a voting system shall meet the standards established by the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued by the Federal Election Commission on January 25, 1990.

(b) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (a). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (a)."

Page 9, line 27, strike "3" and insert "15".

Page 9, delete lines 33 through 42.

Page 10, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1101 as introduced.)

KROMKOWSKI, Chair

Committee Vote: yeas 13, nays 0.

EH 1101—LS 6448/DI 75+



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COMMITTEE REPORT

Mr. President: The Senate Committee on Legislative Apportionment and Elections, to which was referred House Bill No. 1101, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 5. IC 3-6-4.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) In addition to other duties prescribed by law, the commission shall do the following:

- (1) Administer Indiana election laws.
- (2) Adopt rules under IC 4-22-2 to do the following:
 - (A) Govern the fair, legal, and orderly conduct of elections, including the following:
 - (i) Emergency rules described in section 16 of this chapter to implement a court order requiring the commission, the election division, or an election board or official to administer an election in a manner not authorized by this title.
 - (ii) Rules (including joint rules with other agencies when necessary) to implement and administer NVRA.
 - (B) Carry out IC 3-9 (campaign finance).
 - (C) Govern the establishment of precincts under IC 3-11-1.5.
 - (D) Specify procedures and fees for the processing of an application from a vendor for voting systems approval and testing.
 - (E) Prescribe formats for the storage and submission of computerized voter registration records by county and state agencies or offices.
- (3) Prescribe a uniform set of election and registration forms for use throughout Indiana, except when prescribed by this title.
- (4) Advise and exercise supervision over local election and registration officers.
- (5) Investigate and take action on petitions filed under IC 3-11-2-17.**

(b) This section does not divest a county election board of any powers and duties imposed on the board in IC 3-6-5, except that if there is a deadlock on a county election board, the county election board shall submit the question to the commission for final determination.

SECTION 6. IC 3-7-12-1, AS AMENDED BY P.L.144-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

EH 1101—LS 6448/DI 75+



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UPON PASSAGE]: Sec. 1. (a) This section does not apply to the following counties:

- (1) A county in which a board of elections and registration is established under IC 3-6-5.2 or IC 3-6-5.4.
- (2) A county in which a board of registration is established ~~(A) by this chapter; or~~
(B) by a county acting under this chapter.

(b) The circuit court clerk:

- (1) is the voter registration officer of each county; and
- (2) shall supervise the registration of voters of the county.

SECTION 7. IC 3-7-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The county executive of a county not described in ~~section 2 or 3 of this chapter~~ **IC 3-6-5.2 or IC 3-6-5.4** may adopt an order to establish a board of registration."

Page 8, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 15. IC 3-10-6-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.7. (a) This section applies to a town having a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).**

(b) A town that has established staggered terms for its town council may adopt an ordinance during the year preceding a municipal election conducted under section 2 of this chapter changing:

- (1) the length of term of office for town legislative body members and the clerk-treasurer elected at a municipal election not conducted in a general election year; and**
- (2) the time municipal elections are held.**

(c) The ordinance described in subsection (b) must provide all the following:

- (1) The town legislative body members and the clerk-treasurer elected at the next municipal election not conducted in a general election year serve a term not to exceed four (4) years.**
- (2) The successors of the town legislative body members and the clerk-treasurer described in subdivision (1) shall be chosen at a general election specified in the ordinance and serve a term of four (4) years.**
- (3) The municipal elections for town offices shall be held during a general election.**



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SECTION 16. IC 3-11-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The nominees of a political party or group of petitioners shall be listed on the ballots **in type with uniform capital letters and with uniform space between each name** under the name and device of the party or petitioners as designated by them in their certificate or petition, or if none is designated, then under some suitable name and device. If the same device for designating candidates is selected by two (2) parties or groups of petitioners, it shall be given to the one (1) that first selected it, and a suitable device shall be selected for the other party or group of petitioners.

SECTION 17. IC 3-11-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) **If a member of the county election board has verifiable information that an election ballot for the member's county does not comply with the requirements of this chapter or is not in the form required by law, the member may file a petition with the commission protesting the ballot form not later than five (5) days after the member receives the information concerning the election ballot.**

(b) **The petition must specify the manner in which the election ballot does not comply with the requirements of this chapter or is not in the form required by law, including a reference by citation to the specific statutory requirement involved.**

(c) **The county election board member who files a petition under subsection (a) shall serve a copy of the petition upon the other members of the county election board and the circuit court clerk, if the clerk is not a member of the county election board, at the time the petition is filed with the commission.**

(d) **Upon receipt of a petition filed under subsection (a), the commission shall make an investigation in accordance with IC 3-6-4.1-21(b).**

(e) **If the commission determines there is reason to believe that the election ballot does not comply with the requirements of this chapter or is not in the form required by law, the commission shall hold a hearing under IC 3-6-4.1-25.**

(f) **If, after the hearing, the commission determines that the ballot fails to comply with one (1) or more of the requirements of this chapter or is otherwise not in the form required by law, the commission shall take the action it considers appropriate under IC 3-6-4.1-21(c).**

SECTION 18. IC 3-11-8-4.3 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.3. If a ~~precinct~~ contains less than two hundred fifty (250) active voters; (a) The county executive may locate the polls for ~~the a~~ precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct, **if all the following apply:**

- (1) The county election board has adopted a general resolution stating the number of active voters in a precinct that the county election board will use when determining whether to apply this section to a precinct.
- (2) The precinct has fewer active voters than the number stated in the resolution described in subdivision (1).
- (3) The county election board, by unanimous vote of the board's entire membership, adopts a resolution to locate the polls of the precinct at the adjacent precinct.

(b) A resolution adopted by a county election board under subsection (a)(3) expires the day after the election to which the resolution applies."

Page 11, between lines 12 and 13, begin a new paragraph and insert:
 "SECTION 24. IC 6-1.1-18.5-13.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.6. For an appeal filed under section 12 of this chapter, the local government tax control board may recommend that the department of local government finance give permission to a county to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that the county needs the increase to pay for:

- (1) a new voting system; or
 - (2) the expansion or upgrade of an existing voting system;
- under IC 3-11-6.

SECTION 25. IC 6-1.1-18.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The ~~state board of tax commissioners~~, **department of local government finance**, upon receiving a recommendation made under section 13, **13.5, 13.6**, or 14 of this chapter, shall enter an order adopting, rejecting, or adopting in part and rejecting in part the recommendation of the local government tax control board. The decision of the ~~state board of tax commissioners~~ **department of local government finance** is final."

Page 11, between lines 39 and 40, begin a new paragraph and insert:
 "SECTION 27. IC 3-7-12-3 IS REPEALED [EFFECTIVE UPON PASSAGE]."



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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB1101 as printed January 31, 2002.)

LANDSKE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Young R be added as cosponsor of Engrossed House Bill 1101.

LANDSKE

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-23.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2003]: **Sec. 23.7. "Fax" refers to transmission of information by a facsimile (fax) machine.**"

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 3-5-2-40.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2003]: **Sec. 40.6 "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7.**

SECTION 4. IC 3-5-2-40.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 40.7 "Provisional voter" refers to an individual who is entitled to cast a provisional ballot under IC 3-11.7.**

SECTION 5. IC 3-5-2-41.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 41.7. "Registration agency" refers to any of the following:**

(1) **The bureau of motor vehicles.**

(2) **Any other agency at which individuals may register to vote under IC 3-7."**

Page 2, between lines 9 and 10, begin a new paragraph and insert: "SECTION 8. IC 3-5-4-8, AS AMENDED BY P.L.38-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) Except as provided in subsection (e), but notwithstanding any other statute, whenever the commission acts under IC 3-6-4.1-14 to approve a uniform election or registration form for use throughout Indiana or to approve a revision to an existing form, a person must use the most recent version of the form approved by the



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commission to comply with this title after the effective date of the commission's order approving the form.

(b) Except as provided in subsection (d) or (f), before an order approving a form takes effect under this section, the election division shall transmit a copy of each form or revised form approved by the order to the following:

- (1) Each circuit court clerk, if the commission determines that the form is primarily used by a candidate, a county election board member, a county or town political party, or for absentee **or provisional** ballot purposes.
- (2) Each county voter registration office, if the commission determines that the form is primarily used in voter registration.
- (3) The state chairman of each major political party.
- (4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.

(d) The commission shall specify the effective date of the form or revised form and may:

- (1) delay the effective date of the approval of a form or revised form; and
- (2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record. The commission may allow an earlier approved version of the form to be used if the:

- (1) earlier version of the form complies with all other requirements imposed under NVRA or this title; and
- (2) commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.

(f) This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon adoption, without any requirement to distribute the form to other persons."

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Page 3, between lines 39 and 40, begin a new paragraph and insert:
 "SECTION 11. IC 3-6-6-2, AS AMENDED BY P.L.176-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) **Except as provided in section 38 of this chapter**, each county election board shall appoint two (2) poll clerks for each precinct in the county.

(b) Each county chairman of a major political party of the county is entitled to nominate one (1) poll clerk under section 9 of this chapter.

(c) **Except as provided in section 39 of this chapter**, the poll clerks must be voters of the county.

SECTION 12. IC 3-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. A county election board shall adopt a written resolution ~~at least twenty-one (21)~~ **not later than twenty-eight (28)** days before election day designating the precincts for which assistant clerks are to be appointed. The county election board shall file a copy of the resolution in the office of the circuit court clerk and shall mail copies to the county chairmen of the major political parties of the county.

SECTION 13. IC 3-6-6-5, AS AMENDED BY P.L.176-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) Except as provided in ~~subsection (d)~~, **section 38 of this chapter**, each county election board shall appoint two (2) election sheriffs for each precinct in the county.

(b) Each county chairman of a major political party of the county is entitled to nominate one (1) election sheriff under section 9 of this chapter.

(c) **Except as provided in section 39 of this chapter**, the sheriffs must be voters of the county.

~~(d) A county executive may issue an order providing that the judges of each precinct named in the order shall perform the duties and have the rights of the election sheriffs of the precinct named in the order. An order issued under this subsection remains in effect until the county executive rescinds the order.~~

SECTION 14. IC 3-6-6-6 IS AMENDED TO READ AS FOLLOWS: Sec. 6. Each inspector, judge, poll clerk, assistant poll clerk, and election sheriff who is:

(1) a voter of the county; and

(2) not a resident of the precinct;

is entitled to vote by absentee ballot.

SECTION 15. IC 3-6-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. The county chairmen of the major political parties of a county may nominate ~~voters~~ **individuals**

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who meet the requirements of section 7 or 39 of this chapter for the following precinct election offices **who will serve in the precinct on election day:**

- (1) Judge.
- (2) Poll clerk.
- (3) Assistant poll clerk.
- (4) Election sheriff.

SECTION 16. IC 3-6-6-10, AS AMENDED BY P.L.176-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. (a) A county chairman may make nominations for precinct election offices by filing the nominations in writing with the circuit court clerk ~~no not~~ later than noon ~~fourteen (14)~~ **twenty-one (21)** days before the election.

(b) This subsection does not apply to the office of precinct inspector. A county chairman may specify in the nomination of an individual for a precinct election office that the individual is nominated to serve until noon on election day and that another individual is nominated to serve in the same precinct election office beginning at noon on election day until the expiration of the term of the office under section 37(b) of this chapter.

SECTION 17. IC 3-6-6-11, AS AMENDED BY P.L.176-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. (a) A county election board shall appoint the ~~voters~~ **individuals** who are nominated for precinct election offices by the county chairmen **if the individuals are otherwise eligible under this chapter to serve in the precinct election offices for which they are nominated.**

(b) This subsection does not apply to the office of precinct inspector. This subsection applies to an appointment to a precinct election office made following a nomination by a county chairman under this chapter. The county election board shall provide that an appointment of an individual to a precinct election office:

- (1) expires at noon on election day; or
- (2) begins at noon on election day and expires under section 37(b) of this chapter;

if the nomination made by the county chairman specifies that the nomination is made for a term that begins or expires at those times.

(c) This subsection does not apply to the office of precinct inspector. This subsection applies to an appointment to a precinct election office made by a county election board under section 13(b) of this chapter. The county election board may appoint an individual to a precinct election office for a term that:

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- (1) expires at noon on election day; or
- (2) begins at noon on election day and expires under section 37(b) of this chapter.

SECTION 18. IC 3-6-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, ~~seven (7)~~ **fourteen (14)** days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by unanimous vote of the entire membership of the board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

SECTION 19. IC 3-6-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

- (1) I will support the Constitution of the United States and the Constitution of the State of Indiana.
- (2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.
- (3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.
- (4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, **if required by law**, am a qualified voter of that county.
- (5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.
- (6) I am able to read, write, and speak the English language.
- (7) I have no property bet or wagered on the result of this election.
- (8) I am not a candidate to be voted for at this election, except as an unopposed candidate for a political party office.
- (9) If I am serving as an inspector, I am not the chairman or

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treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

SECTION 20. IC 3-6-6-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.**

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

- (1) Sheriff.**
- (2) Poll clerks.**

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

- (1) The precincts to which the resolution applies.**
- (2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.**
- (3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.**

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the resolution.

(f) A resolution adopted under this section expires December 31 after the resolution is adopted.

SECTION 21. IC 3-6-6-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 39. The county election board may permit an individual who is not a voter to be a poll clerk or an election sheriff if the individual satisfies all the following:**

- (1) The individual is at least sixteen (16) years of age but not**

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more than seventeen (17) years of age.

(2) The individual is a citizen of the United States.

(3) The individual is a resident of the county.

(4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.

(5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment.

(6) The individual has the approval of the individual's parent or legal guardian.

(7) The individual has satisfactorily completed any training required by the county election board.

(8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

SECTION 22. IC 3-6-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 12. Investigation of Violations of Election Law

Sec. 1. The attorney general shall establish a toll free telephone number to receive complaints from individuals regarding violations of this title.

Sec. 2. The attorney general shall investigate complaints received under this chapter.

Sec. 3. If the attorney general finds that there is a basis for the complaint, the attorney general shall do the following:

(1) Refer the complaint and the results of the investigation to the appropriate local, state, or federal agency. If the attorney general determines that there is a basis to believe that there may have been a violation of criminal law, the attorney general shall refer the complaint to the appropriate federal agencies and the appropriate prosecuting attorney.

(2) Report the results of the attorney general's investigation to the individual making the complaint. However, the attorney general may exclude from the report any information the disclosure of which the attorney general believes may impair any pending investigation.

Sec. 4. (a) In conducting an investigation under this chapter, the attorney general shall have the following powers:

(1) To issue and serve subpoenas requiring:

(A) the appearance of a witness in person before the attorney general or any person designated by the attorney general; or

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(B) the production of books, papers, electronic data, and documents or other things.

(2) To question witnesses.

(3) To require witnesses to give testimony under oath.

(4) To transcribe testimony provided by witnesses.

(5) To copy, examine, or inspect, or cause to be copied, examined, or inspected, any books, papers, electronic data, records of investigations, summaries of investigations, and documents or other things contained or found in any public office or other place (including, without limitation, evidence under the control of the state police department, local law enforcement personnel, prosecuting attorneys, clerks of court, county election boards, county boards of registration, and boards of elections and registration), whether or not the books, papers, electronic data, records of investigations, summaries of investigations, and documents or other things are or contain confidential information. The attorney general shall maintain the confidentiality of any information obtained under this subdivision.

(6) To examine, inspect, or test, or cause to be examined, inspected, or tested, any machine, computer, or other thing.

(7) To issue a civil investigative demand under IC 4-6-3.

(8) To apply to a court to enforce a subpoena, civil investigative demand, or any other investigative request issued under this chapter.

(9) To exercise all of the investigative powers of a prosecuting attorney.

(b) Only the attorney general or a person designated by the attorney general may exercise the powers provided in this section.

Sec. 5. The commission shall reimburse in full the investigative costs (including the cost of any special deputy attorney general and payroll expenses) incurred by the attorney general under this chapter upon the attorney general's certification to the commission of the amount of the investigative costs."

Page 4, between lines 13 and 14, begin a new paragraph and insert:
"SECTION 25. IC 3-7-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. A voter described in section 1 of this chapter who **wants to:**

(1) ~~is eligible for an vote~~ **by** absentee ballot under IC 3-11-4; and

(2) ~~wants to~~ execute an affidavit or a form for voter registration;

is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be

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signed by such a person.

SECTION 26. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.

(b) When a circuit court clerk or board of registration receives an application for absentee registration, the clerk or board shall promptly mail or deliver to the applicant the affidavit prescribed by this ~~chapter~~ **title** for the registration of an absentee voter by absentee process.

(c) When the properly executed and certified affidavit is returned to the clerk or board, the applicant becomes a registered voter in the precinct of residence.

SECTION 27. IC 3-7-36-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. ~~A voter whose registration has been canceled according~~ **(a) This section applies only to a person described in subsection (b) who applies to register to vote:**

- (1) after the date described in IC 3-7-13-11; and
- (2) before the date that the certified list of voters is prepared under IC 3-7-29-1.

(b) **An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to this article while in the armed services of the United States vote under Indiana law may, upon return returning to Indiana during the period described in subsection (a) following discharge from service have registration reinstated at any time or reassignment, register to vote by doing the following:**

- (1) Showing either of the following to the circuit court clerk or board of registration:

(A) ~~An honorable A~~ discharge from service to the circuit court clerk or board of registration except during the period beginning on the date that the certified list of voters is prepared under IC 3-7-29-1 and ending on election day-, **dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:**

- (i) the voter;
- (ii) the voter's spouse; or
- (iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in

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IC 3-7-13-11, of:

- (i) the voter;**
- (ii) the voter's spouse; or**
- (iii) the individual of whom the voter is a dependent.**

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election as provided in this title.

SECTION 28. IC 3-7-36-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 14. (a) This section applies to a person described in subsection (b) who applies to register to vote during the period:**

- (1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and**
- (2) ending at noon election day.**

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

- (1) Showing either of the following to the circuit court clerk:**
 - (A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:**

- (i) the voter;**
- (ii) the voter's spouse; or**
- (iii) the individual of whom the voter is a dependent.**

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

- (i) the voter;**
- (ii) the voter's spouse; or**
- (iii) the individual of whom the voter is a dependent.**

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

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- (1) Complete an application for an absentee ballot.
- (2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

- (1) Certify in writing that the voter registered under this section.
- (2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, the circuit court clerk shall promptly mail or deliver the voter's registration affidavit to the board of registration.

(f) If the voter chooses not to vote under subsection (c), the clerk or board shall register the voter on the first day of the next registration period.

SECTION 29. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote, unless the circuit court clerk or board of registration provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides.

(b) A person whose name does not appear on the registration record may cast a provisional ballot as provided in IC 3-11.7."

Page 11, between lines 23 and 24, begin a new paragraph and insert: "SECTION 40. IC 3-11-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election **the following:**

- (1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county. ~~and~~
- (2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.
- (3) After December 31, 2003, the number of provisional ballots for state offices (and provisional ballots for President

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of the United States in presidential election years) that the election division considers necessary.

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.

SECTION 41. IC 3-11-3-6, AS AMENDED BY P.L.176-1999, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. **(a)** The election division shall deliver:

(1) the state and presidential paper ballots; and

(2) after December 31, 2003, the provisional ballots for state offices and presidential provisional ballots;

by certified mail, or by another means of delivery that includes a return receipt.

(b) The election division shall mail the paper and provisional ballots to:

(1) each circuit court clerk; or

(2) in a county subject to IC 3-6-5.2, the director of the board of elections and registration.

SECTION 42. IC 3-11-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) The sealed package of paper ballots, **provisional ballots**, sample ballots, and any other supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, ~~and the~~ ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where voting machines, ballot card systems, or electronic voting systems are to be used, the number of paper ballots that will be required for emergency purposes only.

(4) Twenty (20) ink pens suitable for printing the names of

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write-in candidates on the ballot or ballot envelope.

SECTION 43. IC 3-11-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 30. The circuit court clerk, if time permits before the ballots are delivered to the precincts, the poll clerks, or members of the absentee voter board, shall put one (1) of the pasters required by sections 29 and 29.5 of this chapter in the proper place on each ballot label bearing the name of the former candidate and on each paper ballot, **provisional ballot**, or ballot card to be voted in the precinct before they sign their initials on the ballot. The circuit court clerk shall put one (1) of the pasters on each ballot to be voted by an absentee voter before the clerk signs the ballot.

SECTION 44. IC 3-11-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 31. **(a)** Each county election board shall preserve the unused ballots that are left over after supplying the precincts, as prescribed by section 11 of this chapter. The ballots shall be preserved until expiration of the time for filing a contest or recount petition under IC 3-12.

(b) The board shall then destroy all of the ballots, except for one (1) **regular ballot and one (1) provisional ballot.**

SECTION 45. IC 3-11-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 32. **(a)** The county election board shall securely paste the one (1) **regular** ballot that was preserved under section 31 of this chapter in the election record immediately before the ~~place where the vote is to be recorded~~: **provisional ballot placed under subsection (b).** The board shall also enter below the ballot the number of ballots:

- (1) printed by the board;
- (2) delivered to each messenger; and
- (3) destroyed by the board.

(b) The county election board shall securely paste the one (1) **provisional ballot that was preserved under section 31 of this chapter in the election record immediately after the regular ballot placed in the record under subsection (a) and immediately before the place where the vote is to be recorded.** The board shall also enter below the **provisional ballot the number of provisional ballots:**

- (1) printed by the board;**
- (2) delivered to each messenger; and**
- (3) destroyed by the board.**

SECTION 46. IC 3-11-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 0.5. **For purposes of this chapter, an**

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absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:

- (1) sent by United States mail addressed to the voter;
- (2) transmitted by fax to a number provided by the voter; or
- (3) personally given to the voter.

SECTION 47. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) A voter who is otherwise qualified to vote in person ~~including a person eligible to vote under IC 3-10-11 or IC 3-10-12, but who expects to be:~~

- ~~(1) absent from the county on election day;~~
- ~~(2) absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8, as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10, as a challenger or pollbook holder under IC 3-6-7, or as a person employed by an election board to administer the election for which the absentee ballot is requested;~~
- ~~(3) confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;~~
- ~~(4) a voter with disabilities;~~
- ~~(5) an elderly voter;~~
- ~~(6) prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury; or~~
- ~~(7) scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;~~

~~is eligible entitled to vote by absentee ballot. Except as otherwise provided in this chapter, a voter voting by absentee ballot must vote in the office of the circuit court clerk or at a satellite office established under IC 3-11-10-26.3.~~

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person ~~including a person eligible to vote under IC 3-10-11 or IC 3-10-12;~~ to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person ~~including a person eligible to vote under IC 3-10-11 or IC 3-10-12;~~ to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this

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chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 48. IC 3-11-4-2, AS AMENDED BY P.L.38-1999, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) A voter who ~~is eligible~~ **wants** to vote by absentee ballot must apply to the county election board for an official absentee ballot.

(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 49. IC 3-11-4-3, AS AMENDED BY P.L.176-1999, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on **election day if the voter registers to vote under IC 3-7-36-14.**

(2) **Noon** on the day before election day if the voter completes the application in the office of the circuit court clerk.

~~(2)~~ (3) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

~~(3)~~ (4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by a ~~facsimile fax; machine;~~
from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by ~~facsimile fax, transmission;~~ mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by ~~facsimile fax transmission~~ or hand delivered must be received by the circuit court clerk not earlier

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than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 50. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Applications may be made:

- (1) in person;
- (2) by fax transmission; or
- (3) by mail;

on application forms furnished by the county election board or approved by the commission.

(b) Application forms shall:

- (1) be furnished to all central committees in the county no later than:

- (A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

- (B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

- (2) be:

- (A) mailed; or

- (B) ~~except as provided in subsection (c);~~ transmitted by fax; ~~machine;~~

upon request, to a voter applying by mail, by telephone, or by fax; ~~transmission;~~ and

- (3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

- (1) accept; and
- (2) transmit;

applications for absentee ballots under subsection (a) ~~using a facsimile (FAX) machine. only if the county election board owns or has access to a FAX machine. However, by fax.~~ A county election board shall accept an application for an absentee ballot transmitted by fax ~~machine~~ even though the application is delivered to the county election board by a person other than the person submitting the application.

SECTION 51. IC 3-11-4-6, AS AMENDED BY P.L.273-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding

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any other provision of this title, to absentee ballot applications for **the following:**

- (1) An absent uniformed services voter. ~~(as defined in 42 U.S.C. 1973ff-6(1))~~; and
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.**

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) ~~Whenever an absent uniformed services voter or an address confidentiality program participant (as defined in IC 5-26.5-1-6) a~~ **voter described in subsection (a)** files an application for a primary election absentee ballot and indicates on the application that:

- (1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; ~~or~~
- (2) the voter is an address confidentiality program participant; ~~or~~
- (3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;**

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and ~~mail~~ **send** general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and ~~mailed sent~~ under this chapter.

(f) The name, address, telephone number, and any other identifying

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information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

- (1) To a law enforcement agency, upon request.
- (2) As directed by a court order.

(g) ~~This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine. The county election board may~~ **shall** transmit and receive absentee ballots by fax ~~machine to voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:~~

- (1) ~~If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff):~~
- (2) ~~If otherwise mandated to do so under federal law:~~

an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

(h) The county election board shall send confirmation to an absent uniformed services voter that the voter's absentee ballot has been received as follows:

- (1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.
- (2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.
- (3) If the voter does not provide a fax number or an electronic mail address, the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.



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SECTION 52. IC 3-11-4-7, AS AMENDED BY P.L.273-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 7. **(a)** An absentee ballot application under section 6 of this chapter must

~~(1)~~ be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter. ~~and~~

~~(2) show that the:~~ **(b) An absentee ballot application under section 6 of this chapter from an:**

~~(A) (1) absent uniformed services voter; (as defined in 42 U.S.C. 1973ff-6(1)); or~~

~~(B) (2) address confidentiality program participant (as defined in IC 5-26.5-1-6);~~

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) An absentee ballot application under section 6 of this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

SECTION 53. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. ~~(a) Except as provided in subsection (b), an overseas voter may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used:~~

~~(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.~~

~~(c) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (d), the person may apply for an absentee ballot at any time after the applications are made available.~~

~~(d) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).~~

~~(e) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage to the extent as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.~~

~~(f) Whenever an overseas voter files an application for a primary~~



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election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.

SECTION 54. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record **all of the following**:

- (1) The voter's name.
- (2) The date the application is received.
- (3) The date the ballot is ~~mailed or delivered~~ sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) **If transmitted by fax, the fax number to which the ballot is faxed.**
- (6) The date the ballot is marked before the clerk or otherwise received from the voter. ~~and~~
- ~~(6)~~ (7) Any other information that is necessary or advisable.

SECTION 55. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 18. (a) If a voter is entitled to vote an absentee ballot, satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) **The voter will be absent from the county on election day.**
- (2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**
 - (A) a precinct election officer under IC 3-6-5 or IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**



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- (4) The voter is a voter with disabilities.
- (5) The voter is an elderly voter.
- (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.
- (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.
- (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(c) In addition to the ballot mailed under subsection (b), the county election board shall mail a special absentee ballot for

- ~~(1) absent uniformed services voters; and~~
- ~~(2) overseas voters.~~

~~who will be outside of the United States on general election day.~~

(d) The ballot described in subsection (c):

- (1) must be mailed:
 - (A) on the day of the receipt of the voter's application; or
 - (B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;
 whichever is later; and
- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

SECTION 56. IC 3-11-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. Each circuit court clerk shall **do both of the following:**

- (1) Keep a separate absentee ballot record for each precinct in the county. ~~and~~
- (2) Certify to each inspector, at the time that the absentee ballots are delivered, **all the following:**
 - (A) The number of absentee ballots ~~delivered or mailed sent~~ to each absentee voter.
 - (B) The number of absentee ballots marked before the clerk. ~~and~~
 - (C) The names of the voters to whom the ballots were ~~delivered or mailed sent~~ or who marked ballots in person."



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Page 11, between lines 41 and 42, begin a new paragraph and insert:
 "SECTION 58. IC 3-11-8-22 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. **(a)** A voter
 challenged under section 20 of this chapter may vote if the voter makes
 an affidavit in writing that the voter is a legal voter of the precinct and
either of the following applies:

- (1) The voter's name appears on the registration list. ~~or~~
- (2) The voter does one (1) of the following:
 - (A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.
 - (B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those provisions.
 - (C) Makes an oral or a written affirmation under IC 3-10-12.

(b) After December 31, 2003, a voter challenged under section 20 of this chapter:

- (1) whose name does not appear on the registration list; and**
- (2) who is not permitted to cast a vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;**

is entitled to cast a provisional ballot under IC 3-11.7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.

SECTION 59. IC 3-11-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

- (1) A statement that the voter is a citizen of the United States.
- (2) The voter's date of birth to the best of the voter's information and belief.
- (3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.
- (4) The voter's name and a statement that the voter is generally known by that name.
- (5) A statement that the voter has not voted and will not vote in any other precinct in this election.
- (6) The voter's occupation.
- (7) The voter's current residential address, including the street or



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number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter moved.

(8) A statement that the voter understands that making a false statement on the affidavit is punishable under the penalties of perjury.

(9) After December 31, 2003, if the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12, a statement that the individual registered to vote and where the individual believes the individual registered to vote.

SECTION 60. IC 3-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. **(a)** A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, **except as provided in subsection (b), do the following:**

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope. ~~and~~
- (6) Do one (1) of the following:
 - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
 - (B) Deliver the envelope to the county election board in person.
 - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5.

(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:

- (1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.**
- (2) Fold each ballot received from the voter separately so as to conceal the marking.**
- (3) Enclose each ballot in a blank absentee ballot envelope.**



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- (4) Securely seal the envelope.
- (5) Mark on the envelope: "Absentee Ballot Received by Fax".
- (6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 61. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(b) (d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 62. IC 3-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "The county election board has questioned the genuineness of the signature of this voter.". These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this chapter.

SECTION 63. IC 3-11-10-6 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

SECTION 64. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 65. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail **or fax** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 66. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall **do all of the following:**

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name. ~~and~~
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit attached to the ballot envelope.**

SECTION 67. IC 3-11-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;



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- (4) the absentee voter is registered;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. **If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.**

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 68. IC 3-11-10-17, AS AMENDED BY P.L.38-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that **any of the following applies, a ballot may not be accepted or counted:**

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 26 of this chapter;
 - (B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by**

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fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~

(9) The ballot has been challenged and not supported.

~~then the ballots may not be accepted or counted:~~

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 69. IC 3-11-10-24, AS AMENDED BY P.L.38-1999, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. (a) Except as provided in subsection (b), ~~each a voter entitled to vote by absentee ballot who satisfies any of the following~~ is entitled to vote by mail:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-5 or IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's

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residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) A voter with disabilities who:

- (1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and
- (2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

- (1) section 1.5 of this chapter; or
- (2) section 33 of this chapter.

SECTION 70. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 25. (a) ~~Voters A voter~~ who ~~are entitled to vote~~ votes by absentee ballot because of:

- (1) illness or injury; or
- (2) caring for a confined person at a private residence;

~~under IC 3-11-4-1~~ and who ~~are~~ is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
 - (A) the confined voter is unavailable at the time of the board's



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first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

SECTION 71. IC 3-11-10-26, AS AMENDED BY P.L.167-2001, SECTION 1, AND P.L.199-2001, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter **is** entitled to cast an absentee ballot ~~may vote by absentee ballot~~ before an absentee voter board:

(1) in the office of the circuit court clerk; or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day."



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Page 12, between lines 35 and 36, begin a new paragraph and insert:
 "SECTION 74. IC 3-11.5-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 5. An absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

- (1) sent by United States mail addressed to the voter;**
- (2) transmitted by fax to a number provided by the voter; or**
- (3) personally given to the voter.**

SECTION 75. IC 3-11.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. Each circuit court clerk shall do the following:

- (1) Keep a separate absentee ballot record for each precinct in the county.
- (2) Certify to each inspector or the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:
 - (A) to whom absentee ballots were ~~delivered or mailed~~ **sent** or who marked ballots in person; and
 - (B) whose ballots have been received by the county election board under IC 3-11-10.

SECTION 76. IC 3-11.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. If a county election board finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

SECTION 77. IC 3-11.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5."

SECTION 78. IC 3-11.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Each county election board shall certify the names of voters:

- (1) to whom absentee ballots were ~~delivered or mailed~~ **sent** or who marked ballots in person; and

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(2) whose ballots have been received by the board under this chapter;
after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have:

(1) the certificates described in subsection (a); **and**

(2) **the circuit court clerk's certificates for voters who have registered and voted under IC 3-7-36-14;**

delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day.

SECTION 79. IC 3-11.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. (a) Upon delivery of the ~~certificate~~ **certificates** under section 8 of this chapter to a precinct election board, the inspector shall **do the following in the presence of the poll clerks:**

(1) ~~Mark the poll list. in the presence of the poll clerks.~~

(2) **Attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list.**

The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list **and attached the certificates** under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

(1) the certificate prepared under section 1 of this chapter;

(2) the certificate prepared under section 8 of this chapter; and

(3) any challenge affidavit executed by a qualified person under section 16 of this chapter;

in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

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(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier.

SECTION 80. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail **or fax** after noon on election day are considered as arriving too late and may not be counted.

SECTION 81. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit.**

SECTION 82. IC 3-11.5-4-13, AS AMENDED BY P.L.38-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that **any of the following applies, the ballots shall be rejected:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-26;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This**



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subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~

(9) The ballot has been challenged and not supported.

~~the ballots shall be rejected:~~

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 83. IC 3-11.5-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. **(a)** In addition to the preparations described in IC 3-11-11-2, **IC 3-11-12-24, IC 3-11-13-27, or IC 3-11-14-16**, the inspector shall:

(1) mark the poll list; and

(2) attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list;

in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 of this chapter.

(b) The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector:

(1) marked the poll list; and

(2) attached the certificates described in subsection (a)(2);

under this section in the presence of both poll clerks.

(c) The inspector shall retain custody of the certificate **supplied under section 1 of this chapter** until the certificate is returned under section 9 of this chapter.

SECTION 84. IC 3-11.7 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

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ARTICLE 11.7. PROVISIONAL VOTING**Chapter 1. Application and General Provisions**

Sec. 1. This article applies to all elections held after December 31, 2003.

Sec. 2. (a) Except as provided in subsection (b), a provisional ballot must have the same form as an absentee ballot for:

- (1) the election for which the ballot is cast; and
- (2) the precinct in which the ballot is cast.

(b) A provisional ballot must indicate that the ballot is a provisional ballot and not an absentee ballot.

Sec. 3. Except as otherwise provided in this article, the procedures described in this title for paper ballots apply to provisional ballots.

Sec. 4. Each circuit court clerk shall:

- (1) not less than sixty (60) days before the date on which a general, primary, or municipal election is held; or
- (2) not more than three (3) days after the date on which a special election is ordered;

estimate the number of provisional ballots that will be required in the county for the election.

Sec. 5. (a) Provisional ballots for:

- (1) President and Vice President of the United States;
- (2) United States Senator;
- (3) United States Representative;
- (4) all state offices; and
- (5) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana supreme court or the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.

(c) Ballots prepared under this section must provide space for the provisional voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other official ballots are delivered.

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Sec. 6. Each provisional ballot must be signed by the circuit court clerk or an individual authorized by the circuit court clerk and have the circuit court clerk's seal affixed.

Sec. 7. The county election board shall provide to each precinct election board envelopes marked "Provisional Ballot" in which a provisional voter places the voter's provisional ballot.

Sec. 8. Each package of provisional ballots delivered to a circuit court clerk shall be plainly marked on an appropriate attached label with the words: "This package contains _____ (giving number of ballots) provisional ballots.". The clerk shall securely keep all ballots in the clerk's office and shall distribute them to applicants as provided in this article.

Chapter 2. Casting a Provisional Ballot

Sec. 1. An individual:

- (1) whose name does not appear on the registration list; and
- (2) who is not permitted to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;

may cast a provisional ballot if the individual executes an affidavit described in IC 3-11-8-23.

Sec. 2. (a) A provisional voter shall do the following:

- (1) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.
- (5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

Sec. 4. At the close of the polls, the precinct election board shall seal:

- (1) all the provisional ballots; and
- (2) any spoiled provisional ballots;



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in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained. The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

Chapter 3. Provisional Ballot Counters

Sec. 1. Each county election board shall appoint teams of provisional ballot counters consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

Sec. 3. Not later than noon ten (10) days before an election, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of teams of counters to be appointed under this section.

Sec. 4. The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before the election. The county election board shall make the appointments as recommended.

Sec. 5. If a county chairman fails to make any recommendations, the county election board may appoint any voters of the county.

Sec. 6. An individual serving as an absentee ballot counter under IC 3-11.5-4-12 may also serve as a provisional ballot counter under this chapter.

Chapter 4. Watchers for Political Parties, Candidates, and the Media



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Sec. 1. The following apply for the purposes of IC 3-6-8, IC 3-6-9, and IC 3-6-10:

- (1) The location for counting provisional ballots shall be treated the same as a precinct poll.**
- (2) A provisional ballot counter shall be treated the same as a precinct election official.**

Sec. 2. (a) Political parties or independent candidates described in IC 3-6-8-1 may appoint watchers at the location for counting provisional ballots.

(b) A watcher appointed under this section:

- (1) has the rights; and**
- (2) must follow the requirements;**

set forth in IC 3-6-8.

Sec. 3. (a) A candidate entitled to appoint a watcher under IC 3-6-9 may appoint a watcher at the location for counting provisional ballots.

(b) A watcher appointed under this section:

- (1) has the rights; and**
- (2) must follow the requirements;**

set forth in IC 3-6-9.

Sec. 4. (a) Media entitled to appoint a watcher under IC 3-6-10 may appoint a watcher at the location for counting provisional ballots.

(b) A watcher appointed under this section:

- (1) has the rights; and**
- (2) must follow the requirements;**

set forth in IC 3-6-10.

Chapter 5. Counting Provisional Ballots

Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) All provisional ballots must be counted by not later than noon on the Monday following the election.

Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

- (1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.**
- (2) The provisional voter is a qualified voter of the precinct.**
- (3) Based on all the information available to the county election board, including:**
 - (A) information provided by the provisional voter;**
 - (B) information contained in the county's voter**



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registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board may not determine that the provisional voter did not register unless both of the following apply:

(1) The board makes an actual inquiry of the registration agency where the provisional voter states the provisional voter registered.

(2) The registration agency informs the board that the registration agency has no record of the provisional voter's registration.

Sec. 3. (a) If the board determines that section 2(a)(1), 2(a)(2), or 2(a)(3) of this chapter does not apply, all the following apply:

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid."

Sec. 4. If the board determines that a provisional ballot is valid under section 2 of this chapter, the provisional ballot envelope shall be opened. The outside of each provisional ballot shall also be marked to identify the precinct and the date of the election of the ballots.

Sec. 5. (a) If any ballot cast by a provisional voter does not contain the initials of the poll clerks, the ballot shall, without being unfolded to disclose how the ballot is marked, be endorsed with the word "Rejected".

(b) All rejected provisional ballots shall be enclosed and securely sealed in an envelope on which is written "Rejected provisional ballots."

Sec. 6. The provisional ballots shall be counted by laying each ballot upon a table in the order in which the ballots were opened.

Sec. 7. (a) During the counting of the ballots, one (1) counter shall read the name of the candidates voted for from the ballots.

(b) A:



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(1) member of the county election board who is not a member of the same political party as the counter; or
 (2) representative designated by the member;
 shall view the ballots as the names are read.

Sec. 8. During the counting of the ballots:

(1) the counter counting the ballots;
 (2) a member of the county election board; or
 (3) a representative designated by the member;
 may protest the counting of any ballot or any part of a ballot.

Sec. 9. If the counters cannot agree whether to count a ballot following a protest under section 8 of this chapter, the question shall be referred to the county election board for a decision.

Sec. 10. Following a decision by the counters or the county election board, the counters shall sign each protested ballot.

Sec. 11. If a ballot or any part of a ballot is protested and the protest is resolved, the counter immediately shall write on the back of the protested ballot the word "counted" or "not counted", as appropriate.

Sec. 12. A counter may not count provisional ballots for a precinct under this chapter while counting provisional ballots for any other precinct.

Sec. 13. (a) This section applies if at least two (2) sets of counters in a county are counting provisional ballots under this chapter.

(b) A set of counters may count provisional ballots from a precinct while another set of counters is counting provisional ballots from another precinct in the county if each set of counters counts the ballots in compliance with section 7 of this chapter.

Sec. 14. (a) This section applies to the counting of write-in provisional ballots.

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President of the United States is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to write-in provisional ballots.

Sec. 15. When all the votes have been counted, the counters shall prepare a certificate stating the number of votes that each

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candidate received for each office and the number of votes cast on each public question.

Sec. 16. The number of votes that each candidate and public question received shall be written in words and numbers. The counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

Sec. 17. The counters shall deliver the certificates prepared under section 15 of this chapter and the tally papers to the county election board immediately upon the tabulation of the vote in each precinct.

Sec. 18. As soon as the ballots have been counted, the counters shall do the following in the presence of the county election board:

- (1) Place in a strong paper envelope or bag the following:
 - (A) All provisional ballots, voted and spoiled.
 - (B) All provisional ballots:
 - (i) determined invalid under section 3 of this chapter; or
 - (ii) rejected under section 5 of this chapter.
 - (C) All protested and uncounted provisional ballots.
 - (D) All provisional ballot envelopes.
 - (E) All executed affidavits relating to the provisional ballots.
 - (F) The tally papers.
- (2) Securely seal the envelope or bag.
- (3) Have both counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

Sec. 19. Upon delivery of the envelope or bag to the circuit court clerk, each counter shall take and subscribe an oath before the clerk stating that the counter:

- (1) securely kept the ballots and papers in the envelope or bag;
- (2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (3) has no knowledge of any other person opening the envelope or bag.

Sec. 20. The circuit court clerk shall file the oath taken under section 19 of this chapter with the clerk's other election documents.



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Sec. 21. The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks.

Sec. 22. The circuit court clerk shall do the following:

- (1) Lock the receptacle provided under section 21 of this chapter.
- (2) Retain one (1) key to one (1) lock of the receptacle.
- (3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk.

Sec. 23. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31.

Sec. 24. If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During that period, the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

Sec. 25. When permitted under IC 3-10-1-31, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

Sec. 26. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 has expired.

Sec. 27. Immediately upon completion of the vote count, the counters shall make and sign a certificate for the news media showing the total number of provisional ballot votes received by each candidate and on each public question in the precinct.

Sec. 28. The counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.



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Chapter 6. Additional Provisions Relating to Provisional Ballots

Sec. 1. (a) Provisional ballot counters shall conduct the activities conducted by precinct election officials under IC 3-12-4.

(b) The returns of provisional ballot counters shall be treated the same as the returns of a precinct election board under IC 3-12-4.

Sec. 2. A provisional ballot is considered to be cast in the precinct in which the voter who cast the ballot resides for the purpose of the following:

(1) IC 3-12-6.

(2) IC 3-12-11.

(3) IC 3-12-12.

SECTION 85. IC 3-12-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of votes by absentee **and provisional** voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county.

SECTION 86. IC 3-12-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 12. **(a) Votes by absentee voters may be cast on any of the following or any combination of the following:**

(1) Paper ballots. ~~or~~

(2) Ballot cards. ~~or both methods may be used.~~

(3) Electronic voting systems, if both of the following are satisfied:

(A) The voting system software is capable of confidentially identifying and deleting the votes cast by an absentee voter who is successfully challenged.

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(B) The county election board adopts, by unanimous vote of the board's entire membership, the casting of absentee votes on electronic voting systems.

(b) The ballots may be counted by an automatic tabulating machine or by special canvassing boards appointed by and under the direction of the county election board.

(c) A true copy of each paper absentee ballot may be made on a ballot card which, after being verified in the presence of witnesses, shall be counted in the same manner as other ballot cards."

Page 14, between lines 21 and 22, begin a new paragraph and insert: "SECTION 90. IC 3-14-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 27. A precinct election officer ~~who~~, at the close of the polls, ~~or~~ an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6, **or a provisional ballot counter acting under IC 3-11.7-5** who knowingly:

- (1) causes the vote to be incorrectly taken down for a candidate or public question; or
- (2) makes a false statement, certificate, or return of any kind of that vote;

commits a Class D felony.

SECTION 91. IC 3-14-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. A member of a precinct election board, ~~or~~ an absentee ballot counter appointed under IC 3-11.5-4-22, **or a provisional ballot counter appointed under IC 3-11.7-3** who knowingly:

- (1) opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or
- (2) tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a voting machine, ballot card voting system, or electronic voting system or counted by the absentee ballot counter;

commits a Class D felony."

Page 15, between lines 28 and 29, begin a new paragraph and insert: "SECTION 96. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2003]: IC 3-7-36-12; IC 3-7-36-13; IC 3-11-4-9; IC 3-11.5-4-25; IC 3-11.5-4-26; IC 3-11.5-4-27."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1101 as printed February 20, 2002.)

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 14, line 24, after "Sec. 13.6." and before "For" insert **"(a)"**.

Page 14, between lines 33 and 34, begin a new paragraph and insert:

"(b) A county that is granted permission to increase its levy under subsection (a) may not impose the increased levy for more than three (3) calendar years."

(Reference is to EHB 1101 as printed February 20, 2002.)

ZAKAS

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 10, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 16. IC 3-11-1.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. A county executive shall establish precincts so that each boundary of each precinct does not cross the boundary of:

- (1) the state;**
- (2) a county;**
- (3) a township;**
- (4) a city;**
- (5) (4) a district of the House of Representatives of the Congress of the United States;**
- (6) (5) a district of the senate of the general assembly; or**
- (7) (6) a district of the house of representatives of the general assembly.**

SECTION 17. IC 3-11-1.5-5, AS AMENDED BY P.L.212-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. A county executive shall establish precincts so that each boundary of each precinct follows:

- (1) a boundary described in section 4 of this chapter;**
- (2) a boundary of a city or town;**
- (3) a boundary of a town legislative body district;**
- (4) a boundary of a census block established by the Bureau of the Census and depicted in the GIS; or**
- (5) a boundary of a school corporation that does not follow a**

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census block line.

SECTION 18. IC 3-11-1.5-25, AS AMENDED BY P.L.212-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. **In addition to the period specified in section 25.5 of this chapter**, a precinct establishment order may not become effective during the following periods:

- (1) In a year in which a general election is held, the period beginning on the first day that a declaration of candidacy may be filed under IC 3-8-2-4 and ending the day following general election day.
- (2) For precincts located wholly or partially within a municipality, after January 31 and before the day following municipal election day, in a year in which a municipal election is held.

SECTION 19. IC 3-11-1.5-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 25.5. (a) A precinct establishment order may not take effect during the period:**

- (1) beginning August 1 of the year preceding a year in which a federal decennial census is conducted; and
- (2) ending on the latest effective date of the redistricting plans for the election of:
 - (A) United States Representatives;
 - (B) senators in the general assembly; and
 - (C) representatives in the general assembly;
 adopted in the year following a federal decennial census.

(b) Whenever a precinct boundary splits a census block, the office may move the precinct boundaries to the next whole census block for the purpose of the tabulation of the population before a federal decennial census.

(c) The office shall transmit all changes in precinct boundaries made in accordance with subsection (b) to:

- (1) the election division; and
- (2) the clerk of the circuit court of each county in which the precincts are located.

SECTION 20. IC 3-11-1.5-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 25.7. (a) This section applies to the redistricting plans prepared after November 8, 2011, for the following:**

- (1) A board of county commissioners under IC 36-2-2-4.
- (2) A county fiscal body under IC 36-2-3-4.
- (3) A municipal legislative body under:



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- (A) IC 36-3-4-3;
 - (B) IC 36-4-6-3;
 - (C) IC 36-4-6-4;
 - (D) IC 36-4-6-5;
 - (E) IC 36-5-1-10.1;
 - (F) IC 36-5-2-4.1; or
 - (G) IC 36-5-2-4.2.
- (4) A township legislative body under IC 36-6-6-2.5.
- (5) Any other local governmental body or office required periodically to establish or revise its districts.
- (b) Except as provided in subsection (c), a redistricting plan must use the precinct boundaries used in preparing the redistricting plans for the election of:
- (1) United States Representatives;
 - (2) senators in the general assembly; and
 - (3) representatives in the general assembly;
- adopted after the latest federal decennial census.
- (c) A redistricting plan must:
- (1) assign territory described in an annexation ordinance; and
 - (2) unassign territory described in a disannexation ordinance;
- not incorporated into the precinct boundaries described in subsection (b).

SECTION 21. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [JULY 1, 2002] [EFFECTIVE JULY 1, 2002]: Sec. 31. (a) After the co-directors have reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

- (1) approve a proposed precinct establishment order under this section no later than the following January 31; and
- (2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held.

(b) This subsection applies to a county that has a precinct that crosses a city boundary in violation of section 4(4) of this chapter. Notwithstanding section 25 of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance with section 4(4) of this chapter by December 31 preceding the year in which the municipal election will be held, the commission may issue an order establishing precincts that comply with section 4(4) of this chapter after January 15 and before the following February 16."

Page 15, between lines 26 and 27, begin a new paragraph and insert:
 "SECTION 33. IC 36-2-2-4, AS AMENDED BY P.L.122-2000, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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JULY 1, 2002]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) the members of the Indiana election commission;
- (2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

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(1) in 2001 and every ten (10) years after that; and

(2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

(g) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 34. IC 36-2-3-4, AS AMENDED BY P.L.122-2000, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major

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industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) in 2001 and every ten (10) years after that; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

(g) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 35. IC 36-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

(1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, **reasonably practical**, equal population; and

(3) do not cross precinct boundary lines **to the extent reasonably practical**.

This division shall be made in 1992 and every ten (10) years after that, and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) In making the division required by subsection (a), the city-county legislative body shall use the precinct boundary lines used in the most recent countywide election held before the year in which the division is made.

(c) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at large district containing the whole county.

~~(c)~~ **(d)** Each voter of the county may vote for four (4) candidates for at large membership and one (1) candidate from the district in which the voter resides. The four (4) at large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

~~(d)~~ **(e)** If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county

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may petition the superior court of the county to hear and determine the matter. There may not be a change of venue from the court or from the county. The court sitting en banc may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

~~(e)~~ **(f)** An election of the legislative body held under the ordinance or court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid.

(g) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 36. IC 36-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city into six (6) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

- (1) when following a precinct boundary line; or
- (2) the city legislative body certifies in the ordinance that the

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census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(m) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.



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SECTION 37. IC 36-4-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

- (1) when following a precinct boundary line; or
- (2) the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made in 2002,

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every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(n) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

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(o) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(p) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 38. IC 36-4-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted before September 1, 1982, decide to be governed by this section instead of section 4 of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as

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is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

- (1) when following a precinct boundary line; or
- (2) the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

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(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(q) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 39. IC 36-5-1-10.1, AS AMENDED BY P.L.123-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The

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ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500); or

(B) divide the town into not less than three (3) nor more than seven (7) districts; and

(2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal

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decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances providing for the incorporation of the town.

(h) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 40. IC 36-5-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.1. (a) The legislative body may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers.

(b) A town legislative body district must comply with the following standards:

- (1) The district must be composed of contiguous territory, except for territory that is not contiguous to any other part of the town.
- (2) The district must be reasonably compact.
- (3) The district must contain, as nearly as is possible, equal population.
- (4) The district may not cross a census block boundary except when following a precinct boundary line or when the ordinance specifies that the census block has no population and is not likely to ever have population.
- (5) The district may not cross precinct lines, except as provided in subsection (c).

(c) The boundary of a town legislative body district established under subsection (a) may cross a precinct boundary line if:

- (1) the legislative body provides by ordinance under section 5 of this chapter that all legislative body members are to be elected at large by the voters of the whole town; or
- (2) the district would not otherwise contain, as nearly as is possible, equal population.

(d) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(e) If any territory in the town is included in more than one (1) of the

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districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(f) The ordinance may be appealed in the manner prescribed by IC 34-13-6. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(g) This subsection does not apply to a town with an ordinance described by subsection (h). The division permitted by subsection (a) shall be made in 2002, every ten (10) years after that, subject to IC 3-11-1.5-32, and when required to assign annexed territory to a municipal legislative body district. The division may also be made in any other year.

(h) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

- (1) town legislative body districts are abolished; and
- (2) all members of the legislative body are elected at large.

(i) An ordinance described by subsection (h):

- (1) may not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and
- (2) is effective upon passage.

(j) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the town not later than thirty (30) days after the ordinance is adopted.

(k) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7.

SECTION 41. IC 36-6-6-2.5, AS AMENDED BY P.L.122-2000, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. (a) This section applies to townships in a county having a population of more than seven hundred thousand (700,000).

(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;



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(3) respect, as nearly as reasonably practicable, precinct boundary lines; and

(4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

(1) state that the legislative body is considering the adoption of a resolution to divide the township into legislative body districts; and

(2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

(1) In 2001.

(2) Every ten (10) years after 2002.

(3) Subject to IC 3-11-1.5-32.5, whenever the boundary of the township changes.

(e) The legislative body may make the division under this section at any time, subject to IC 3-11-1.5-32.5.

(f) After November 8, 2011, a division under this section is subject to IC 3-11-1.5-25.7."

Page 15, between lines 28 and 29, begin a new paragraph and insert: "SECTION 43. IC 3-11-1.5-30 IS REPEALED [EFFECTIVE JULY 1, 2002]."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1101 as printed February 20, 2002.)

MILLER

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1.5. "Absent uniformed services voter" ~~as provided in 42 U.S.C. 1973ff-6(1); means:~~ **refers to any of the following:**

(1) A member of a uniformed service on active duty who, by

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reason of active duty, is absent from the place of residence where the member is otherwise qualified to vote.

(2) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote. ~~and~~

(3) **A member of the Indiana national guard deployed or on assignment outside Indiana.**

(4) A spouse or dependent of a member referred to in subdivision (1), ~~or~~ (2), **or (3)** who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote."

Page 1, between lines 13 and 14, begin a new paragraph and insert:
"SECTION 3. IC 3-5-2-34.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 34.5. "Overseas voter" ~~as provided in 42 U.S.C. 1973ff-6(5); means:~~ **refers to any of the following:**

(1) An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved.

(2) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States. ~~or~~

(3) A person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States."

Page 4, between lines 13 and 14, begin a new paragraph and insert:
"SECTION 10. IC 3-7-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. A voter may not submit a registration application by electronic transmission except ~~for an absent uniformed services voter or overseas voter under IC 3-11-4-4; as provided in IC 3-11-4.~~"

Renumber all SECTIONS consecutively.

(Reference is to EHB1101 as printed February 20, 2002.)

SKILLMAN

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